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2012 Legislative Proposal

AN ACT CONCERNING CAPITAL FELONY

Purpose: *To abolish the death penalty and establish "life without the possibility of release" as the sentence which can be imposed upon a person convicted of committing a capital felony.*

Section 1. **(NEW) (***Effective upon passage***) THE DEATH PENALTY IS ABOLISHED IN THIS STATE. ANY PERSON CONVICTED OF CAPITAL FELONY PURSUANT TO C.G.S. §53a-54b AFTER THE EFFECTIVE DATE OF THIS ACT SHALL BE SENTENCED TO LIFE WITHOUT THE POSSIBILITY OF RELEASE. ANY PERSON WHO STANDS CONVICTED OF A CAPITAL FELONY AND WHO HAS BEEN SENTENCED TO DEATH AS OF THE EFFECTIVE DATE OF THIS ACT SHALL HAVE SUCH PERSON'S SENTENCE COMMUTED TO A SENTENCE OF LIFE WITHOUT THE POSSIBILITY OF RELEASE.**

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2012 Legislative Proposal

AN ACT CONCERNING COMMUNITY SERVICE

Purpose: ***This proposed legislation would allow the court to impose either a fine or order the performance of community service if a person commits a violation. The proposal prohibits a person from being incarcerated to work off a fine.***

Section 1. (NEW) **THE COURT MAY ORDER ANY PERSON WHO HAS COMMITTED A VIOLATION WHO IS INDIGENT AND UNABLE TO PAY THE FINE IMPOSED FOR SAID VIOLATION TO (A) PERFORM UP TO ONE HOUR OF COMMUNITY SERVICE FOR EVERY $10.00 OF A FINE IMPOSED, NOT TO EXCEED THE MAXIMUM AMOUNT OF A FINE THAT CAN BE IMPOSED.**

Section 2. *Section 18-50 (Credit against unpaid fine for time spent [in confinement, employed or] performing community service. Payment of fines, fees and costs after commitment) of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective upon passage):*

(a)(1)[Except as provided in subdivision (2) of this subsection, each] **NO** person **SHALL BE** committed to any community correctional center upon conviction of any criminal offense, and held therein only for the payment of a fine**.** [, shall be discharged from confinement when the time served by such person at a per diem rate equal to the average daily cost of incarceration as determined by the Commissioner of Correction amounts to such fine or the balance thereof remaining unpaid. Such person shall earn an additional credit of fifty dollars toward such fine or balance thereof remaining unpaid for each day such person is employed at productive or maintenance work and has established a satisfactory work record. In computing the number of days to be served, credit shall be given for Sundays, holidays and the day of admission. Each person so committed shall be released during the day following that which completes the time to be served when computed in accordance with this subdivision, or immediately upon payment of the fine in full.]

(2) **IN ANY DOCKET** [Each person] **IN WHICH A FINE HAS BEEN IMPOSED UPON A PERSON BY THE COURT AND THE PERSON HAS BEEN DETERMINED TO BE INDIGENT,** [committed to any community correctional center upon conviction of any criminal offense, and held therein only for the payment of a fine, may be released from confinement by the Commissioner of Correction and,] with the agreement of the Court Support Services Division within the Judicial Department, **THE PERSON SHALL** be [transferred to] **SUPERVISED BY** said **THE COURT SUPPORT SERVICES** division **WITHIN THE JUDICIAL DEPARTMENT** subject to the requirement that such person perform community service under the supervision of said division until the period of community service performed by such person at the rate **EQUIVALENT TO TEN DOLLARS PER HOUR OF COMMUNITY SERVICE** [of fifty dollars a day] amounts to such fine or the balance thereof remaining unpaid. Any person so transferred shall remain under the **SUPERVISION** [jurisdiction] of the **COURT SUPPORT SERVICES DIVISION** [commissioner.] Such person shall be discharged from the **SUPERVISION** [jurisdiction] of the **COURT SUPPORT SERVICES DIVISION** [commissioner] when such person completes the period of community service required to be performed when computed in accordance with this subdivision or immediately upon payment of the fine in full. If, at any time during such person's **SUPERVISION BY THE COURT SUPPORT SERVICES DIVISION** [release from confinement] pursuant to this subdivision, the **COURT SUPPORT SERVICES DIVISION** [commissioner] determines that the conduct of such person is unsuitable for continuation in such program of community service, such person may be returned to **COURT** [confinement] **FOR FURTHER PROCEEDINGS. ANY PERSON SO RETURNED TO THE COURT SHALL BE ENTITLED TO BE REPRESENTED BY A PUBLIC DEFENDER PURSUANT TO C.G.S. §51-296, IF INDIGENT. AT ANY TIME, THE COURT MAY PROVIDE THE PERSON WITH ADDITIONAL TIME TO COMPLETE THE COMMUNITY SERVICE SO ORDERED.**

(3) Payments of **ANY** fine after **A PERSON HAS BEEN SUPERVISED BY THE COURT SUPPORT SERVICES DIVISION FOR PURPOSES OF COMPLETING COMMUNITY SERVICE** [commitment] shall be made to the clerk of the court which imposed the sentence, and such clerk shall thereupon issue a certificate, which shall be delivered to the [Community Correctional Center Administrator] **COURT SUPPORT SERVICES** as evidence of such payment [and shall be attached to and retained with the mittimus or other commitment process,] except that, if payment is made at any time when the office of such clerk is not open, such payment shall be made to any person designated by the [Community Correctional Center Administrator] **THE COURT SUPPORT SERVICES** [at the community correctional center] where such person **WAS SUPERVISED** [is confined], and such person so designated shall transmit the payment to the clerk of the court on the first court day thereafter. [No person shall be held in confinement for failure to pay a fine after such a certificate showing that such fine has been fully paid has been delivered to the Community Correctional Center

Administrator; provided, if a fine is paid to a person designated to accept it when the office of the clerk is not open, the person confined to the community correctional center shall immediately be released without requiring the prior issuance of such certificate.]

(b) Payments by persons [committed to community correctional centers] **SUPERVISED BY THE COURT SUPPORT SERVICES** of fees imposed under the provisions of section 51-56a or costs imposed under the provisions of section 54-143 or 54-143a shall be made to the clerk of the court location which imposed the sentence. [, except that if payment is made at any time when the office of such clerk is not open, such payment shall be made to any official at the correctional center where such person is confined and such official shall transmit the payment to the clerk of the court on the first court day thereafter.]

(c) (NEW) (EFFECTIVE UPON PASSAGE) THERE SHALL BE A PRESUMPTION THAT ANY PERSON DETERMINED ELIGIBLE FOR REPRESENTATION BY A PUBLIC DEFENDER OR ASSIGNED COUNSEL OF THE OFFICE OF CHIEF PUBLIC DEFENDER PURSUANT TO C.G.S. §51-296 IS INDIGENT AND AS SUCH ANY FINES, FEES OR COSTS SHALL BE WAIVED AGAINST SUCH INDIGENT PERSON.

Section 3. *Section 18-63 (Commitment for failure to pay fine) of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective upon passage):*

Upon **A DETERMINATION BY THE COURT THAT ALTHOUGH A PERSON HAS VIOLATED A COURT ORDER IN REGARD TO THE PERFORMANCE OF COMMUNITY SERVICE IMPOSED IN LIEU OF A FINE SUCH PERSON SHOULD RECEIVE ADDITIONAL TIME WITHIN WHICH TO PERFORM THE COMMUNITY SERVICE OR** any conviction for a crime, if [the convict] **A PERSON** fails to pay any fine lawfully imposed, **SUCH PERSON** [he] shall be **TRANSFERRED TO THE SUPERVISION OF THE COURT SUPPORT SERVICES DIVISION** [committed to a community correctional center] **TO PERFORM COMMUNITY SERVICE IN ACCORDANCE WITH C.G.S. §18-50 AS AMENDED** until such fine is paid.

ANY PERSON SO TRANSFERRED WHO INTENTIONALLY REFUSES TO PERFORM COMMUNITY SERVICE SHALL BE REFERRED TO COURT FOR COMMITMENT TO A COMMUNITY CORRECTIONAL CENTER AND HELD THEREIN ONLY FOR THE PAYMENT OF A FINE AND SHALL BE DISCHARGED FROM CONFINEMENT WHEN THE TIME SERVED BY SUCH PERSON AT A PER DIEM RATE EQUAL TO THE AVERAGE DAILY COST OF INCARCERATION AS DETERMINED BY THE COMMISSIONER OF CORRECTION AMOUNTS TO SUCH FINE OR THE BALANCE THEREOF REMAINING UNPAID. SUCH PERSON SHALL EARN AN ADDITIONAL CREDIT OF FIFTY DOLLARS TOWARD SUCH FINE OR BALANCE THEREOF REMAINING UNPAID FOR

EACH DAY SUCH PERSON IS EMPLOYED AT PRODUCTIVE OR MAINTENANCE WORK AND HAS ESTABLISHED A SATISFACTORY WORK RECORD. IN COMPUTING THE NUMBER OF DAYS TO BE SERVED, CREDIT SHALL BE GIVEN FOR SUNDAYS, HOLIDAYS AND THE DAY OF ADMISSION. EACH PERSON SO COMMITTED SHALL BE RELEASED DURING THE DAY FOLLOWING THAT WHICH COMPLETES THE TIME TO BE SERVED WHEN COMPUTED IN ACCORDANCE WITH THIS SUBDIVISION, OR IMMEDIATELY UPON PAYMENT OF THE FINE IN FULL.

Section 4. *Section 53a-27. (Violation: Definition, designation) of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective upon passage):*

(a) An offense, for which the only sentence authorized is a fine, **AND/OR COMMUNITY SERVICE**, is a violation unless expressly designated an infraction.

(b) Every violation defined in this chapter is expressly designated as such. Any offense, defined in any other section which is not expressly designated a violation or infraction shall be deemed a violation if, notwithstanding any other express designation, it is within the definition set forth in subsection (a).

Section 5. *Section 54-92b (Discharge from community correctional center when held for nonpayment of fine) of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective upon passage):*

Any person held in a community correctional center for the nonpayment of fine **SHALL** [only may, upon application,] be discharged from such imprisonment [by the court by which he was committed or, when the court is not sitting, by any judge thereof, provided such notice of such application and the hearing thereon as the court or judge may direct shall be given to the prosecuting officer of the court.] **AND SUPERVISED BY THE COURT SUPPORT SERVICES DIVISION FOR PURPOSES OF COMPLETING COMMUNITY SERVICE IN ACCORDANCE WITH C.G.S. §18-50 AS AMENDED.**

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2012 Legislative Proposal

AN ACT CONCERNING CERTAIN DRUG OFFENSES

Purpose: ***This proposed legislation would create a violation for the possession of narcotic residue and eliminate mandatory minimum sentences for certain drug offenses.***

Section 1. *Section 21a-279 (Penalty for illegal possession. Alternative sentences) of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective upon passage):*

(a) Any person who possesses or has under his control [any] **A** quantity of any narcotic substance **WHICH IS GREATER THAN RESIDUE**, except as authorized in this chapter, for a first offense, may be imprisoned not more than seven years or be fined not more than fifty thousand dollars, or be both fined and imprisoned; and for a second offense, may be imprisoned not more than fifteen years or be fined not more than one hundred thousand dollars, or be both fined and imprisoned; and for any subsequent offense, may be imprisoned not more than twenty-five years or be fined not more than two hundred fifty thousand dollars, or be both fined and imprisoned. **RESIDUE IS DEFINED AS USELESS TRACES OF A NARCOTIC SUBSTANCE WHICH IS NOT ENOUGH THAT IT CAN ACTUALLY BE USED AS A DRUG BY THE PERSON WHO POSSESSES IT.**

(b) Any person who possesses or has under his control any quantity of a hallucinogenic substance other than marijuana or four ounces or more of a cannabis-type substance, except as authorized in this chapter, for a first offense, may be imprisoned not more than five years or be fined not more than two thousand dollars or be both fined and imprisoned, and for a subsequent offense may be imprisoned not more than ten years or be fined not more than five thousand dollars or be both fined and imprisoned.

(c) Any person who possesses or has under his control any quantity of any controlled substance other than a narcotic substance, or a hallucinogenic substance other than

marijuana [or who possesses or has under his control less than four ounces of a cannabis-type substance,] except as authorized in this chapter, for a first offense, may be fined not more than one thousand dollars or be imprisoned not more than one year, or be both fined and imprisoned; and for a subsequent offense, may be fined not more than three thousand dollars or be imprisoned not more than five years, or be both fined and imprisoned.

(d) (NEW) ANY PERSON WHO POSSESSES OR HAS UNDER HIS CONTROL THE RESIDUE[1] OF A NARCOTIC SUBSTANCE, EXCEPT AS AUTHORIZED IN THIS CHAPTER, SHALL HAVE COMMITTED A VIOLATION AND ORDERED TO PAY A FINE OF $250.00.

(E)[(j)] Any person who **KNOWINGLY** violates subsection (a), (b), [or] (c)**, OR (d)** of this section in or on, or within one thousand five hundred feet of, the real property comprising a public or private elementary or secondary school and who is not enrolled as a student in such school or a licensed child day care center, as defined in section 19a-77, that is identified as a child day care center by a sign posted in a conspicuous place [shall] **MAY** be imprisoned for a term of **UP TO** two years[, which shall not be suspended and shall be in addition and consecutive to any term of imprisonment imposed for violation of subsection (a), (b) or (c) of this section].

(F) As an alternative to the sentences specified in subsections (a) and (b) and specified for a subsequent offense under subsection (c) of this section, the court may sentence the person to the custody of the Commissioner of Correction for an indeterminate term not to exceed three years or the maximum term specified for the offense, whichever is the lesser, and at any time within such indeterminate term and without regard to any other provision of law regarding minimum term of confinement, the Commissioner of Correction may release the convicted person so sentenced subject to such conditions as he may impose including, but not limited to, supervision by suitable authority. At any time during such indeterminate term, the Commissioner of Correction may revoke any such conditional release in his discretion for violation of the conditions imposed and return the convicted person to a correctional institution.

(G) To the extent that it is possible, medical treatment rather than criminal sanctions shall be afforded individuals who breathe, inhale, sniff or drink the volatile substances defined in subdivision (49) of section 21a-240.

[1] "Useless traces or residue of a drug will not support a conviction for possession or purchase for sale. The quantity of the drug has to be enough that it can actually be *used* as a drug by the person/people to whom it will be sold." (See California Health & Safety Code 11351 HS Prosecution)

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2012 Legislative Proposal

AN ACT CONCERNING FAMILY IMPACT STATEMENTS

Purpose: *This proposal would require that a family impact statement be considered by the court prior to sentencing in any case in which a custodial parent will be incarcerated.*

(NEW)(Effective October 1, 2012) **THE COURT SHALL CONSIDER A FAMILY IMPACT STATEMENT SUBMITTED BY THE DEFENSE IN ANY CASE IN WHICH THE DEFENDANT IS FACING A SENTENCE OF INCARCERATION AND THE DEFENDANT HAS PHYSICAL CUSTODY OF HIS/HER MINOR CHILDREN OR IS THE LEGAL GUARDIAN OF A MINOR CHILD WITH PHYSICAL CUSTODY. THE FAMILY IMPACT STATEMENT WILL ASSESS THE IMPACT UPON THE MINOR CHILDREN AND THE NEEDS OF THE FAMILY SHOULD THE DEFENDANT BE SENTENCED TO INCARCERATION AND CONSIDER FACTORS RELATED TO THE FINANCIAL IMPACT TO THE FAMILY, THE RELATIONSHIP BETWEEN THE PARENT AND THE CHILD, COMMUNITY AND FAMILY SUPPORT, THE PARENT'S EMPLOYMENT HISTORY AND AVAILABLE EMPLOYMENT OPPORTUNITIES, COMMUNITY PROGRAM AND COUNSELING THAT IS AVAILABLE TO ASSIST IN THE REHABILITATION OF THE PARENT IF NOT INCARCERATED, THE SERIOUSNESS OF THE CRIME AND THE PARENT'S CRIMINAL HISTORY.**

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2012 Legislative Proposal

AN ACT CONCERNING ELIGIBILITY FOR APPOINTMENT OF COUNSEL

Purposes: *This proposal will assure that persons appointed counsel in family relations juvenile matters are indigent and eligible for such.*

Section 4 of P.A. 11-51 is repealed and the following is substituted in lieu thereof (Effective October 1, 2012):

(a) The judicial authority before whom a family relations matter described in subdivision (1) of subsection (c) of section 51-296 is pending shall determine eligibility for counsel for a child or youth and the parents or guardian of a child or youth if they are indigent according to the Income and Eligibility Guidelines for eligibility promulgated by the Public Defender Services Commission. Upon a finding of indigency, the judicial authority shall appoint an attorney to provide representation from a list of qualified attorneys provided by the Office of Chief Public Defender.

(b) The judicial authority before whom a juvenile matter described in subdivision (2) of subsection (c) of section 51-296 is pending shall notify the Office of Chief Public Defender who shall assign an attorney to represent the child or youth. The judicial authority shall determine eligibility for counsel for the parents or guardian of the child or youth if such parents or guardian is indigent according to the Income and Eligibility Guidelines promulgated by the Public Defender Services Commission. Upon a finding that such parents or guardian is indigent, the judicial authority shall notify the Office of Chief Public Defender of such finding, and the Office of Chief Public Defender shall assign an attorney to provide representation.

(c) **FOR PURPOSES OF SUBSECTION (a) AND (b) OF THIS SECTION, THE JUDICIAL AUTHORITY SHALL MAKE THE DETERMINATION**

OF ELIGIBILITY FOR REPRESENTATION TO BE PAID FOR BY THE DIVISION OF PUBLIC DEFENDER SERVICES IN ACCORDANCE WITH THE INCOME AND ELIGIBILITY GUIDELINES ADOPTED BY THE DIVISION OF PUBLIC DEFENDER SERVICES COMMISSION. For the purposes of determining eligibility for appointment of counsel pursuant to subsection (a) or (b) of this section, the judicial authority shall cause the parents or guardian of a child or youth to complete a written statement under oath or affirmation setting forth the parents' or guardian's liabilities and assets, income and sources thereof, and such other information as the Division of Public Defender Services Commission shall designate and require on forms adopted by said commission.

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2012 Legislative Proposal

AN ACT CONCERNING REIMBURSEMENT FOR THE COST OF LEGAL SERVICES RENDERED TO NON-INDIGENT PERSONS

Purpose: *This proposal would permit the Division of Public Defender Services to seek reimbursement of the costs of legal services provided from the Judicial Department whenever Public Defender Services have been ordered by the court in any case where a person has not been determined to be indigent by the Office of Chief Public Defender pursuant to the eligibility guidelines of the Division of ` Public Defender Services Commission.*

(NEW) (Effective Upon Passage) **IN ANY CASE IN WHICH A PUBLIC DEFENDER OR PUBLIC DEFENDER ASSIGNED COUNSEL HAVE BEEN APPOINTED BY THE COURT TO PROVIDE LEGAL SERVICES TO A PERSON WHO HAS THE COURT HAS DETERMINED IS NOT INDIGENT PURSUANT TO THE ELIGIBILITY GUIDELINES ADOPTED BY THE PUBLIC DEFENDER SERVICES COMMISSION, INCLUDING THOSE CASES IN WHICH COUNSEL HAS BEEN APPOINTED PURSUANT TO SUBSECTION (c) OF SECTION 51-296, AS AMENDED BY THIS ACT, THE COMMISSION SHALL BE ENTITLED TO RECOVER FROM THE JUDICIAL DEPARTMENT, THE COST IT EXPENDS FOR ANY SERVICES IN SUCH PROCEEDINGS.**

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2012 Legislative Proposal

AN ACT CONCERNING GUARDIANS AD LITEM

Purpose: *This proposal is technical in nature to clarify that Guardians Ad Litem appointed by the court and who are paid from the budget of the Division of Public Defender Services are within the definition of state officers.*

Section 4-141 of the general statutes, as amended by section 9 of P.A. 11-51 is repealed and the following is substituted in lieu thereof (Effective July 1, 2012):

As used in this chapter: "Claim" means a petition for the payment or refund of money by the state or for permission to sue the state; "just claim" means a claim which in equity and justice the state should pay, provided the state has caused damage or injury or has received a benefit; "person" means any individual, firm, partnership, corporation, limited liability company, association or other group, including political subdivisions of the state; "state agency" includes every department, division, board, office, commission, arm, agency and institution of the state government, whatever its title or function; and "state officers and employees" includes every person elected or appointed to or employed in any office, position or post in the state government, whatever such person's title, classification or function and whether such person serves with or without remuneration or compensation, including judges of probate courts, employees of such courts and special limited conservators appointed by such courts pursuant to section 17a-543a. In addition to the foregoing, "state officers and employees" includes attorneys appointed as victim compensation commissioners, attorneys appointed by the Public Defender Services Commission as public defenders, assistant public defenders or deputy assistant public defenders and attorneys appointed by the court as Division of Public Defender Services Assigned Counsel **AND GUARDIAN AD LITEMS APPOINTED BY THE COURT AND PAID BY THE DIVISION OF PUBLIC DEFENDER SERVICES**, the Attorney General, the Deputy Attorney General and any associate attorney general or assistant attorney general, any other attorneys employed by any state agency, any commissioner of the Superior Court hearing small claims matters or acting as a fact-finder, arbitrator or magistrate or acting in any other quasi-

judicial position, any person appointed to a committee established by law for the purpose of rendering services to the Judicial Department, including, but not limited to, the Legal Specialization Screening Committee, the State-Wide Grievance Committee, the Client Security Fund Committee, the advisory committee appointed pursuant to section 51-81d and the State Bar Examining Committee, any member of a multidisciplinary team established by the Commissioner of Children and Families pursuant to section 17a-106a, and any physicians or psychologists employed by any state agency. "State officers and employees" shall not include any medical or dental intern, resident or fellow of The University of Connecticut when (1) the intern, resident or fellow is assigned to a hospital affiliated with the university through an integrated residency program, and (2) such hospital provides protection against professional liability claims in an amount and manner equivalent to that provided by the hospital to its full-time physician employees.

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2012 Legislative Proposal

AN ACT CONCERNING DISCRETIONARY TRANSFER HEARINGS AND CHANGES TO THE TIME FOR TRANSFERRING CASES BACK TO JUVENILE COURT

Purpose: *This proposal places Class B felonies under the discretionary transfer provisions of the statute and provides for a hearing before a judge in the juvenile matters court after a motion for a discretionary transfer from the juvenile to the adult criminal docket has been filed. The proposal also sets out the criteria for the court to consider in making its decision whether to transfer a case to the adult court and eliminates the time limits for transferring a case back to the juvenile court.*

Section 46b-127 of the general statutes, as amended by section 73 of public act 10-1 of the June special session, is repealed and the following is substituted in lieu thereof (Effective October 1, 2012):

(a) The court shall automatically transfer from the docket for juvenile matters to the regular criminal docket of the Superior Court the case of any child charged with the commission of a capital felony, a class A [or B] felony or a violation of **section 53a-54d,** provided such offense was committed after such child attained the age of fourteen years and counsel has been appointed for such child if such child is indigent. Such counsel may appear with the child but shall not be permitted to make any argument or file any motion in opposition to the transfer. The child shall be arraigned in the regular criminal docket of the Superior Court at the next court date following such transfer, provided any proceedings held prior to the finalization of such transfer shall be private and shall be conducted in such parts of the courthouse or the building wherein court is located as shall be separate and apart from the other parts of the court which are then being held for proceedings pertaining to adults charged with crimes. [The file of any case so transferred shall remain sealed until the end of the tenth working day following such arraignment unless the state's attorney has filed a motion pursuant to this subsection, in which case such file shall remain sealed until the court makes a decision on the motion.] A state's attorney may, [not later than ten working days] **AT ANY TIME** after such

arraignment, file a motion to transfer the case of any child charged with the commission of a class B felony or a violation of subdivision (2) of subsection (a) of section 53a-70 to the docket for juvenile matters for proceedings in accordance with the provisions of this chapter. [The court sitting for the regular criminal docket shall, after hearing and not later than ten working days after the filing of such motion, decide such motion.]

(b) Upon motion of a juvenile prosecutor **THE JUVENILE MATTERS COURT SHALL CONDUCT A HEARING TO DETERMINE IF** [and order of the court,] the case of any child charged with the commission of a class **B,** C or D felony or an unclassified felony shall be transferred from the docket for juvenile matters to the regular criminal docket of the Superior Court**. NO TRANSFER SHALL BE ORDERED UNLESS THE COURT FINDS (1)** such offense was committed after such child attained the age of fourteen years **, (2)** [and the court finds ex parte] that there is probable cause to believe the child has committed the act for which he is charged, **AND (3) THE BEST INTEREST OF THE CHILD AND THE PUBLIC WILL NOT BE SERVED BY MAINTAINING THE CASE IN THE JUVENILE COURT. IN MAKING SUCH DETERMINATION THE COURT SHALL CONSIDER (A) THE PRIOR RECORD OF THE CHILD; (B) THE SEVERITY OF THE CRIME; (C) ANY EVIDENCE OF MENTAL RETARDATION OR MENTAL ILLNESS; (D) WHETHER THERE ARE SERVICES IN THE JUVENILE COURT THAT CAN SERVE THE CHILD'S NEEDS.** The file of any case so transferred shall remain sealed until such time as the court sitting for the regular criminal docket accepts such transfer. **THE MOTION MUST BE FILED AND THE HEARING HELD WITHIN 30 DAYS OF THE CHILD'S ARRAIGNMENT IN JUVENILE COURT.** The court sitting for the regular criminal docket may return any such case to the docket for juvenile matters [not later than ten working days after the date of the transfer] **AT ANY TIME FOR GOOD CAUSE SHOWN** for proceedings in accordance with the provisions of this chapter. The child shall be arraigned in the regular criminal docket of the Superior Court by the next court date following such transfer, provided any proceedings held prior to the finalization of such transfer shall be private and shall be conducted in such parts of the courthouse or the building wherein court is located as shall be separate and apart from the other parts of the court which are then being held for proceedings pertaining to adults charged with crimes.

(c) Upon the effectuation of the transfer**,** such child shall stand trial and be sentenced, if convicted, as if he were seventeen years of age. Such child shall receive credit against any sentence imposed for time served in a juvenile facility prior to the effectuation of the transfer**.** A child who has been transferred may enter a guilty plea to a lesser offense if the court finds that such plea is made knowingly and voluntarily. Any child transferred to the regular criminal docket who pleads guilty to a lesser offense shall not resume his status as a juvenile regarding said offense. If the action is dismissed or nolled or if such child is found not guilty of the charge for which he was transferred or of any lesser included offenses, the child shall resume his status as a juvenile until he attains the age of seventeen years.

(d) Any child transferred to the regular criminal docket of the Superior Court who is detained shall be in the custody of the Commissioner of Correction upon the finalization of such transfer**.** A transfer shall be final (1) upon the expiration of ten working days after the arraignment if no motion has been filed by the state's attorney pursuant to subsection (a) of this section or, if such motion has been filed, upon the decision of the court to deny such motion, or (2) upon the court accepting the transfer pursuant to subsection (b) of this section. Any child returned to the docket for juvenile matters who is detained shall be in the custody of the Judicial Department.

(e) The transfer of a child to a Department of Correction facility shall be limited to the provisions of subsection (d) of this section and said subsection shall not be construed to permit the transfer of or otherwise reduce or eliminate any other population of juveniles in detention or confinement within the Judicial Department or the Department of Children and Families.

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2012 Legislative Proposal

AN ACT CONCERNING JUVENILE JUSTICE

Purpose: ***The legislation would provide credit for a child who is arrested and held in certain facilities prior to the disposition of the juvenile matter who is subsequently convicted as a delinquent and committed to the Department of Children and Families. The change mirrors what currently occurs in the adult system as adults who are arrested receive credit for all pretrial confinement time if subsequently convicted and incarcerated.***

The proposed legislation also provides that any statement made by a child is admissible in a delinquency proceeding or criminal prosecution as long as the parents of the child are present when it was made.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2012*) WHENEVER A CHILD CONVICTED AS DELINQUENT IS COMMITTED TO THE DEPARTMENT OF CHILDREN AND FAMILIES AND SUBSEQUENTLY ARRESTED, THE PERIOD OF THE CHILD'S COMMITMENT SHALL BE REDUCED BY THE NUMBER OF DAYS THE CHILD WAS (1) HELD PRIOR TO THE DISPOSITION OF A JUVENILE OFFENSE IN A JUVENILE DETENTION CENTER, AN ALTERNATIVE DETENTION CENTER, THE CONNECTICUT JUVENILE TRAINING SCHOOL OR ANY OTHER FACILITY OR HOSPITAL PURSUANT TO A DETENTION ORDER, OR (2) CONFINED TO A POLICE STATION, COURTHOUSE LOCKUP OR CORRECTIONAL FACILITY IN CONNECTION WITH A JUVENILE OFFENSE PRIOR TO THE DISPOSITION OF THE OFFENSE.

Section 2. *Section 46b-137 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2012):*

(a) Any admission, confession or statement, written or oral, made by a child to a police officer or Juvenile Court official shall be inadmissible in any proceeding concerning the alleged delinquency of the child**, OR ANY CRIMINAL PROSECUTION OF THE CHILD,** making such admission, confession or statement unless made by such child in the presence of **[**his**]** **THE CHILD'S** parent or parents or guardian and after the parent or parents or guardian and child have been advised (1) of the child's right to retain counsel, or if unable to afford counsel, to have counsel appointed on the child's behalf, (2) of the child's right to refuse to make any statements**,** and (3) that any statements **[**he**]** **THE CHILD** makes may be introduced into evidence against **[**him**]** **THE CHILD**.

(b) Any confession, admission or statement, written or oral, made by the parent or parents or guardian of the child or youth after the filing of a petition alleging such child or youth to be neglected, uncared-for or dependent, shall be inadmissible in any proceeding held upon such petition against the person making such admission or statement unless such person shall have been advised of **[**his**]** **THE PERSON'S** right to retain counsel, and that if **[**he**]** **THE PERSON** is unable to afford counsel, counsel will be appointed to represent **[**him**]** **THE PERSON,** that **[**he**]** **THE PERSON** has a right to refuse to make any statement and that any statements **[**he**]** **THE PERSON** makes may be introduced in evidence against **[**him**]** **THE PERSON**.

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2012 Legislative Proposal

AN ACT CONCERNING SHACKLING OF JUVENILES

Purpose: *This proposed legislation would promote consistency and prohibit juveniles from being shackled after arrest and prior to conviction as a delinquent unless to ensure public safety.*

Section 1. (NEW) (*Effective October 1, 2012***)** **AT ANY PROCEEDING CONCERNING THE ALLEGED DELINQUENCY OF A CHILD, NO CHILD SHALL BE PHYSICALLY RESTRAINED BY THE USE OF SHACKLES, HANDCUFFS, OR OTHER MECHANICAL RESTRAINT PRIOR TO BEING CONVICTED OR ADJUDICATED AS DELINQUENT, UNLESS THE JUDGE DETERMINES THAT RESTRAINTS ON THAT INDIVIDUAL CHILD ARE NECESSARY TO ENSURE PUBLIC SAFETY. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS PREVENTING A CHILD FROM BEING PHYSICALLY RESTRAINED WHILE BEING TRANSPORTED FROM ONE PLACE TO ANOTHER.**

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2012 Legislative Proposal

AN ACT CONCERNING DIVERSIONARY PROGRAM FEES

Purpose: This proposed legislation clarifies that application and program fees required by statute for certain pre-trial diversionary programs and probation are waived for persons represented by a public defender.

Section 1. (NEW) (*Effective upon passage*) **ALL APPLICATION AND PROGRAM FEES FOR THE FOLLOWING PROGRAMS SHALL BE WAIVED BY THE COURT IF THE PERSON HAS BEEN DETERMINED INDIGENT AND ELIGIBLE FOR REPRESENTATION BY A PUBLIC DEFENDER WHO HAS BEEN APPOINTED PURSUANT TO C.G.S. §51-296:**

(1) C.G.S. §53a-39c – COMMUNITY SERVICE LABOR PROGRAM;
(2) C.G.S. §54-56e –ACCELERATED REHABILITATION;
(3) C.G.S. §54-56g - ALCOHOL EDUCATION PROGRAM;
(4) C.G.S. §54-56i – PRETRIAL DRUG EDUCATION PROGRAM;
(5) C.G.S. §54-56j - PRETRIAL SCHOOL VIOLENCE PREVENTION PROGRAM;
(6) C.G.S. §46b-38c (g) - FAMILY VIOLENCE EDUCATION PROGRAM;
(7) C.G.S. §17a-694 – EXAMINATION FOR ALCOHOL OR DRUG DEPENDENCY;
(8) C.G.S. §17a-696 – MOTION FOR SUSPENSION OF PROSECUTION AND ORDER OF TREATMENT; AND,
(9) ALL PROBATION AND PROGRAM FEES FOR ANY PERSON SENTENCED TO A PERIOD OF PROBATION, INCLUDING JUVENILE AND YOUTHFUL OFFENDER PROBATION SENTENCES.

Section 2. (NEW) (*Effective upon passage*) **COMMUNITY SERVICE SHALL NOT BE REQUIRED IN LIEU OF PAYMENT OF APPLICATION AND PROGRAM FEES WHENEVER A PERSON HAS BEEN DETERMINED INDIGENT AND ELIGIBLE**

FOR REPRESENTATION BY A PUBLIC DEFENDER WHO HAS BEEN APPOINTED PURSUANT TO C.G.S. §51-296.

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2012 Legislative Proposal

AN ACT CONCERNING THE ALTERNATE INCARCERATION PROGRAM

Purpose: ***To create a process and standards for the expungement of court files for a person who has successfully completed the Alternate Incarceration Program.***

Section 1. *Section 53a-39a (Alternate incarceration program) of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective upon passage):*

(a) In all cases where a defendant has been convicted of a misdemeanor or a felony, other than a capital felony, a class A felony or a violation of section 21a-278, 21a-278a, 53a-55, 53a-56, 53a-56b, 53a-57, 53a-58 or 53a-70b or any other offense for which there is a mandatory minimum sentence which may not be suspended or reduced by the court, after trial or by a plea of guilty without trial, and a term of imprisonment is part of a stated plea agreement or the statutory penalty provides for a term of imprisonment, the court may, in its discretion, order an assessment for placement in an alternate incarceration program under contract with the Judicial Department. If the Court Support Services Division recommends placement in an alternate incarceration program, it shall also submit to the court a proposed alternate incarceration plan. Upon completion of the assessment, the court shall determine whether such defendant shall be ordered to participate in such program as an alternative to incarceration. If the court determines that the defendant shall participate in such program, the court shall suspend any sentence of imprisonment and shall make participation in the alternate incarceration program a condition of probation as provided in section 53a-30.

(b) An alternate incarceration program includes, but shall not be limited to, an intensive probation program, any community service program approved by the Chief Court Administrator and any residential or nonresidential program approved by the Chief Court Administrator which provides care, supervision and supportive services such as employment, psychiatric and psychological evaluation and counseling, and drug and alcohol dependency treatment. Any defendant placed in an alternate

incarceration program shall comply with any other conditions of probation ordered by the court or required by the Court Support Services Division, as provided in subsections (a) and (b) of section 53a-30.

(C) ANY PERSON WHO HAS SUCCESSFULLY COMPLETED HIS OR HER TERM OF PROBATION UNDER THE ALTERNATE INCARCERATION PROGRAM AND SATISFACTORILY COMPLIED WITH ALL CONDITIONS AND REQUIREMENTS OF AN ALTERNATE INCARCERATION PROGRAM MAY FILE A MOTION WITH THE SENTENCING COURT REQUESTING THE EXPUNGEMENT OF ALL RECORDS OF CONVICTION FOR THE OFFENSE THAT RESULTED IN HIS OR HER PARTICIPATION IN THE ALTERNATE INCARCERATION PROGRAM.

(D) ANY PERSON FILING A MOTION FOR EXPUNGEMENT SHALL PROVIDE A COPY OF THE MOTION, AND UPON RECEIPT OF NOTICE OF THE HEARING DATE AS SCHEDULED BY THE COURT, NOTICE OF THE HEARING DATE, ON A FORM APPROVED BY THE RULES OF THE COURT, TO THE PROSECUTOR, THE POLICE DEPARTMENT THAT MADE THE INITIAL ARREST AND THE VICTIM OR VICTIMS OF SUCH CRIME OR MOTOR VEHICLE VIOLATION, IF ANY, BY REGISTERED OR CERTIFIED MAIL. SUCH VICTIM OR VICTIMS SHALL HAVE AN OPPORTUNITY TO BE HEARD AT THE HEARING ON THE MOTION FOR EXPUNGEMENT.

(E) AFTER THE HEARING, AT WHICH ALL RELEVANT TESTIMONY AND INFORMATION SHALL BE CONSIDERED, THE COURT MAY IN ITS DISCRETION, ORDER THE EXPUNGEMENT OF THE RECORDS OF CONVICTION FOR WHICH THE PERSON WAS ORDERED TO PARTICIPATE IN THE ALTERNATE INCARCERATION PROGRAM IF IT FINDS THAT:

1. **THE PERSON SATISFACTORILY COMPLETED THE TERM OF PROBATION AND COMPLIED WITH ALL CONDITIONS AND REQUIREMENT OF THE ALTERNATE INCARCERATION PROGRAM;**
2. **THE PERSON HAS NOT BEEN ARRESTED OR CONVICTED FOR ANY CRIME SINCE HE OR SHE WAS ORDERED BY THE COURT TO PARTICIPATE IN THE ALTERNATE INCARCERATION PROGRAM, AND THAT THERE ARE NO CRIMINAL PROCEEDINGS PENDING AGAINST THE PERSON; AND**
3. **THE PERSON HAS MADE A GOOD FAITH EFFORT TO REHABILITATE HIM OR HERSELF.**

(F) IF THE COURT GRANTS THE MOTION FOR EXPUNGEMENT, THE PETITIONER SHALL PAY A ONE HUNDRED DOLLAR FEE TO THE CLERK OF THE COURT. THE COURT SHALL ALSO ORDER THAT A COPY OF THE ORDER OF EXPUNGEMENT BE SENT TO THE LAW ENFORCEMENT AGENCY OR

OTHER AGENCY WHICH MAINTAINS AND/OR HAS POSSESSION OF SUCH RECORDS FOR COMPLIANCE PURPOSES.

(G) SUCH EXPUNGEMENT ORDER SHALL HAVE THE SAME LEGAL EFFECT AS A FULL PARDON GRANTED BY THE BOARD OF PARDONS AND PAROLES.

(H) WHENEVER THE SUPERIOR COURT GRANTS AN EXPUNGEMENT PURSUANT TO THIS SECTION, THE COURT OR RECORDS CENTER OF THE JUDICIAL DEPARTMENT SHALL DIRECT ALL POLICE AND COURT RECORDS AND RECORDS OF THE STATE'S OR PROSECUTING ATTORNEY PERTAINING TO SUCH CASE TO BE ERASED.

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2012 Legislative Proposal

AN ACT CONCERNING THE COMMUNITY SERVICE LABOR PROGRAM

Purpose: ***To give the court discretion to place offenders in the community service labor program more than twice and to provide for the sealing of court files for offenders who are placed in the pre-trial community service labor program.***

Section 1. *Section 53a-39c (Community service labor program) of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective upon passage):*

(a) There is established, within available appropriations, a community service labor program for persons charged with a violation of section 21a-267 or 21a-279 who have not previously been convicted of a violation of section 21a-267, 21a-277, 21a-278 or 21a-279. Upon application by any such person for participation in such program the court **SHALL, BUT ONLY AS TO THE PUBLIC, ORDER THE COURT FILE SEALED PROVIDED THE APPLICANT STATES UNDER OATH, IN OPEN COURT OR BEFORE ANY PERSON DESIGNATED BY THE CLERK AND DULY AUTHORIZED TO ADMINISTER OATHS, UNDER PENALTIES OF PERJURY, THAT HE/SHE HAS NOT PREVIOUSLY BEEN PLACED IN THE COMMUNITY SERVICE LABOR PROGRAM TWICE. IF THE COURT GRANTS THE APPLICATION IT MUST SUSPEND PROSECUTION AND PLACE THE APPLICANT IN THE PRETRIAL COMMUNITY SERVICE LABOR PROGRAM.** [may grant such application and (1) if such person has not previously been placed in the community service labor program the court may either suspend prosecution and place such person in such program or, upon a plea of guilty without trial where a term of imprisonment is part of a stated plea agreement, suspend any sentence of imprisonment and make participation in such program a condition of probation or conditional discharge in accordance with section 53a-30; or (2) if]

(b) THERE IS ESTABLISHED A COMMUNITY SERVICE LABOR PROGRAM FOR PERSONS WHO HAVE PLED GUILTY TO A VIOLATION OF SECTION 21a-267

OR 21a-279 AND WHO HAVE NOT PREVIOUSLY BEEN CONVICTED OF A VIOLATION OF 21a-277 OR 21a-278. THE COURT MAY, UPON APPLICATION OF SUCH PERSON AND [such person has previously been placed in such program, the court may,] upon a plea of guilty without trial where a term of imprisonment is part of a stated plea agreement, suspend any sentence of imprisonment and make participation in such program a condition of probation or conditional discharge in accordance with said section 53a-30. [No person may be placed in such program who has twice previously been placed in such program.]

(c) Any person who enters such program shall pay to the court a participation fee of two hundred five dollars, except that no person may be excluded from such program for inability to pay such fee, provided (1) such person files with the court an affidavit of indigency or inability to pay, (2) such indigency is confirmed by the Court Support Services Division, and (3) the court enters a finding thereof. All program fees collected shall be deposited into the alternative incarceration program account.

(d) Any person for whom prosecution is suspended and who is placed in the community service labor program pursuant to subsection (a) of this section shall agree to the tolling of the statute of limitations with respect to such crime and to a waiver of such person's right to a speedy trial. A pretrial community service labor program established under this section for persons for whom prosecution is suspended shall include a drug education component. If such person satisfactorily completes the program of community service labor to which such person was assigned, such person may apply for dismissal of the charges against such person and the court, on reviewing the record of such person's participation in such program and on finding such satisfactory completion, shall dismiss the charges. If the program provider certifies to the court that such person did not successfully complete the program of community service labor to which such person was assigned or is no longer amenable to participation in such program, the court shall **UNSEAL THE FILE AND** enter a plea of not guilty for such person and immediately place the case on the trial list.

(e) The period of participation in a community service labor program shall be a minimum of fourteen days for a first violation, [and] thirty days for a second violation, **AND FORTY DAYS FOR A THIRD OR SUBSEQUENT VIOLATION** involving a plea of guilty and conviction.

(f) ANY PERSON WHO HAS BEEN PLACED IN SUCH PROGRAM UPON A PLEA OF GUILTY WITHOUT TRIAL WHERE A TERM OF IMPRISONMENT IS PART OF A STATED PLEA AGREEMENT, WHO SUCCESSFULLY COMPLETES THE COMMUNITY SERVICE LABOR PROGRAM MAY FILE A MOTION WITH THE SENTENCING COURT FOR THE EXPUNGEMENT OF RECORDS OF CONVICTION FOR THE OFFENSE THAT RESULTED IN HIS OR HER PARTICIPATION IN THE COMMUNITY SERVICE LABOR PROGRAM.

(g) ANY SUCH PERSON FILING A MOTION FOR EXPUNGEMENT SHALL PROVIDE A COPY OF THE MOTION AND THE NOTICE OF THE HEARING DATE SCHEDULED ON A FORM APPROVED BY THE RULES OF COURT, TO THE PROSECUTOR, THE POLICE DEPARTMENT THAT MADE THE INITIAL ARREST AND THE VICTIM OR VICTIMS OF SUCH CRIME OR MOTOR VEHICLE VIOLATION, IF ANY, BY REGISTERED OR CERTIFIED MAIL. SUCH VICTIM OR VICTIMS SHALL HAVE AN OPPORTUNITY TO BE HEARD AT THE HEARING FOR THE MOTION FOR EXPUNGEMENT.

(h) THE COURT AFTER THE HEARING AT WHICH ALL RELEVANT TESTIMONY AND INFORMATION SHALL BE CONSIDERED, MAY, IN ITS DISCRETION ORDER THE EXPUNGEMENT OF THE RECORDS OF CONVICTION FOR WHICH THE PERSON WAS ORDERED TO PARTICIPATE IN THE COMMUNITY SERVICE LABOR PROGRAM IF IT FINDS THAT:

1. **THE PERSON SATISFACTORILY COMPLETED THE TERM OF PROBATION AND COMPLIED WITH ALL CONDITIONS AND REQUIREMENT OF THE COMMUNITY SERVICE LABOR PROGRAM;**
2. **THE PERSON HAS NOT BEEN ARRESTED OR CONVICTED FOR ANY CRIME SINCE HE OR SHE WAS ORDERED BY THE COURT TO PARTICIPATE IN THE COMMUNITY SERVICE LABOR PROGRAM, AND THAT THERE ARE NO CRIMINAL PROCEEDINGS PENDING AGAINST THE PERSON; AND**
3. **THE PERSON HAS MADE A GOOD FAITH EFFORT TO REHABILITATE HIM OR HERSELF.**

(i) IF THE COURT GRANTS THE MOTION FOR EXPUNGEMENT, THE PETITIONER SHALL PAY A ONE HUNDRED DOLLAR FEE TO THE CLERK OF THE COURT. THE COURT SHALL ALSO ORDER THAT A COPY OF THE ORDER OF EXPUNGEMENT BE SENT TO THE LAW ENFORCEMENT AGENCY OR OTHER AGENCY WHICH MAINTAINS AND/OR HAS POSSESSION OF SUCH RECORDS FOR COMPLIANCE PURPOSES.

(J) SUCH EXPUNGEMENT ORDER SHALL HAVE THE SAME LEGAL EFFECT AS A FULL PARDON GRANTED BY THE BOARD OF PARDONS AND PAROLES.

(k) WHENEVER THE SUPERIOR COURT GRANTS AN EXPUNGEMENT PURSUANT TO THIS SECTION, THE COURT OR RECORDS CENTER OF THE JUDICIAL DEPARTMENT SHALL DIRECT ALL POLICE AND COURT RECORDS AND RECORDS OF THE STATE'S OR PROSECUTING ATTORNEY PERTAINING TO SUCH CASE TO BE ERASED.

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2012 Legislative Proposal

AN ACT CONCERNING ACCELERATED REHABILITATION

Purpose: ***To establish a ten year look back period for eligibility for the Accelerated Rehabilitation Program.***

Section 1. *Section 54-56e (Accelerated pretrial rehabilitation) of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective upon passage):*

(a) There shall be a pretrial program for accelerated rehabilitation of persons accused of a crime or crimes or a motor vehicle violation or violations for which a sentence to a term of imprisonment may be imposed, which crimes or violations are not of a serious nature.

(b) The court may, in its discretion, invoke such program on motion of the defendant or on motion of a state's attorney or prosecuting attorney with respect to a defendant and if the court invokes the program it shall but only as to the public, order the court file sealed, provided (1) [who,] the court believes **THE DEFENDANT** will probably not offend in the future, (2)[who] **THE DEFENDANT** has no previous record of conviction of a crime or of a violation of section 14-196, subsection (c) of section 14-215, section 14-222a, subsection (a) of section 14-224 or section 14-227a and (3) **THE DEFENDANT** states under oath, in open court or before any person designated by the clerk and duly authorized to administer oaths, under the penalties of perjury that the defendant has never had such program invoked in the defendant's behalf, **OR THAT TEN OR MORE YEARS HAVE PASSED SINCE THE DATE THAT ANY CHARGE OR CHARGES FOR WHICH THE PROGRAM WAS INVOKED ON THE DEFENDANT'S BEHALF HAVE BEEN DISMISSED BY THE COURT** provided the defendant shall agree thereto and provided notice has been given by the defendant, on a form approved by rule of court, to the victim or victims of such crime or motor vehicle violation, if any, by registered or certified mail and such victim or victims have an opportunity to be heard thereon. In determining whether to grant an application under this section with respect to a person who has been adjudged a youthful offender under

the provisions of sections 54-76b to 54-76n, inclusive, [more than five years prior to the date of such application,] and notwithstanding the provisions of section 54-76*l*, the court shall have access to the youthful offender records of such person and may consider the nature and circumstances of the crime with which such person was charged as a youth. Any defendant who makes application for participation in such program shall pay to the court an application fee of thirty-five dollars.

(c) This section shall not be applicable: (1) To any person charged with a class A felony, a class B felony, except a violation of section 53a-122 that does not involve the use, attempted use or threatened use of physical force against another person, or a violation of section 14-227a, subdivision (2) of subsection (a) of section 53-21, section 53a-56b, 53a-60d, 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a, 53a-72b, 53a-90a, 53a-196e or 53a-196f, (2) to any person charged with a crime or motor vehicle violation who, as a result of the commission of such crime or motor vehicle violation, causes the death of another person, (3) to any person accused of a family violence crime as defined in section 46b-38a who (A) is eligible for the pretrial family violence education program established under section 46b-38c, or (B) has previously had the pretrial family violence education program invoked in such person's behalf, (4) to any person charged with a violation of section 21a-267 or 21a-279 who (A) is eligible for the pretrial drug education program established under section 54-56i, or (B) has previously had the pretrial drug education program invoked in such person's behalf, (5) unless good cause is shown, to any person charged with a class C felony, or (6) to any person charged with a violation of section 9-359 or 9-359a.

(d) Except as provided in subsection (e) of this section, any defendant who enters such program shall pay to the court a participation fee of one hundred dollars. Any defendant who enters such program shall agree to the tolling of any statute of limitations with respect to such crime and to a waiver of the right to a speedy trial. Any such defendant shall appear in court and shall, under such conditions as the court shall order, be released to the custody of the Court Support Services Division, except that, if a criminal docket for drug-dependent persons has been established pursuant to section 51-181b in the judicial district, such defendant may be transferred, under such conditions as the court shall order, to the court handling such docket for supervision by such court. If the defendant refuses to accept, or, having accepted, violates such conditions, the defendant's case shall be brought to trial. The period of such probation or supervision, or both, shall not exceed two years. The court may order that as a condition of such probation the defendant participate in the zero-tolerance drug supervision program established pursuant to section 53a-39d. If the defendant has reached the age of sixteen years but has not reached the age of eighteen years, the court may order that as a condition of such probation the defendant be referred for services to a youth service bureau established pursuant to section 10-19m, provided the court finds, through an assessment by a youth service bureau or its designee, that the defendant is in need of and likely to benefit from such services. When determining any

conditions of probation to order for a person entering such program who was charged with a misdemeanor that did not involve the use, attempted use or threatened use of physical force against another person or a motor vehicle violation, the court shall consider ordering the person to perform community service in the community in which the offense or violation occurred. If the court determines that community service is appropriate, such community service may be implemented by a community court established in accordance with section 51-181c if the offense or violation occurred within the jurisdiction of a community court established by said section. If the defendant is charged with a violation of section 46a-58, 53-37a, 53a-181j, 53a-181k or 53a-181*l*, the court may order that as a condition of such probation the defendant participate in a hate crimes diversion program as provided in subsection (e) of this section. If a defendant is charged with a violation of section 53-247, the court may order that as a condition of such probation the defendant undergo psychiatric or psychological counseling or participate in an animal cruelty prevention and education program provided such a program exists and is available to the defendant.

(e) If the court orders the defendant to participate in a hate crimes diversion program as a condition of probation, the defendant shall pay to the court a participation fee of four hundred twenty-five dollars. No person may be excluded from such program for inability to pay such fee, provided (1) such person files with the court an affidavit of indigency or inability to pay, (2) such indigency or inability to pay is confirmed by the Court Support Services Division, and (3) the court enters a finding thereof. The Judicial Department shall contract with service providers, develop standards and oversee appropriate hate crimes diversion programs to meet the requirements of this section. Any defendant whose employment or residence makes it unreasonable to attend a hate crimes diversion program in this state may attend a program in another state which has standards substantially similar to, or higher than, those of this state, subject to the approval of the court and payment of the application and program fees as provided in this section. The hate crimes diversion program shall consist of an educational program and supervised community service.

(f) If a defendant released to the custody of the Court Support Services Division satisfactorily completes such defendant's period of probation, such defendant may apply for dismissal of the charges against such defendant and the court, on finding such satisfactory completion, shall dismiss such charges. If the defendant does not apply for dismissal of the charges against such defendant after satisfactorily completing such defendant's period of probation, the court, upon receipt of a report submitted by the Court Support Services Division that the defendant satisfactorily completed such defendant's period of probation, may on its own motion make a finding of such satisfactory completion and dismiss such charges. If a defendant transferred to the court handling the criminal docket for drug-dependent persons satisfactorily completes such defendant's period of supervision, the court shall release the defendant to the custody of the Court Support Services Division under such conditions as the court shall order or

shall dismiss such charges. Upon dismissal, all records of such charges shall be erased pursuant to section 54-142a. An order of the court denying a motion to dismiss the charges against a defendant who has completed such defendant's period of probation or supervision or terminating the participation of a defendant in such program shall be a final judgment for purposes of appeal.

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2012 Legislative Proposal

AN ACT CONCERNING THE FAMILY VIOLENCE PROGRAM

Purpose: *To establish a ten year look back period for invoking the family violence education program, to provide for the sealing of court files for offenders who are placed in the program, and to provide for community service for those who use the program more than once*

Section 1. *Section 46b-38c (Family violence response and intervention units. Local units. Duties and functions. Protective orders. Pretrial family violence education program) of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective upon passage):*

(a) There shall be family violence response and intervention units in the Connecticut judicial system to respond to cases involving family violence. The units shall be coordinated and governed by formal agreement between the Chief State's Attorney and the Judicial Department.

(b) The Court Support Services Division, in accordance with the agreement between the Chief State's Attorney and the Judicial Department, shall establish within each geographical area of the Superior Court a local family violence intervention unit to implement sections 46b-1, 46b-15, 46b-38a to 46b-38f, inclusive, and 54-1g. The Court Support Services Division shall oversee direct operations of the local units.

(c) Each such local family violence intervention unit shall: (1) Accept referrals of family violence cases from a judge or prosecutor, (2) prepare written or oral reports on each case for the court by the next court date to be presented at any time during the court session on that date, (3) provide or arrange for services to victims and offenders, (4) administer contracts to carry out such services, and (5) establish centralized reporting procedures. All information provided to a family relations officer in a local family violence intervention unit shall be solely for the purposes of preparation of the report and the protective order forms for each case and recommendation of services and shall

otherwise be confidential and retained in the files of such unit and not be subject to subpoena or other court process for use in any other proceeding or for any other purpose, except that if the victim has indicated that the defendant holds a permit to carry a pistol or revolver or possesses one or more firearms, the family relations officer shall disclose such information to the court and the prosecuting authority for appropriate action.

(d) In all cases of family violence, a written or oral report and recommendation of the local family violence intervention unit shall be available to a judge at the first court date appearance to be presented at any time during the court session on that date. A judge of the Superior Court may consider and impose the following conditions to protect the parties, including, but not limited to: (1) Issuance of a protective order pursuant to subsection (e) of this section; (2) prohibition against subjecting the victim to further violence; (3) referral to a family violence education program for batterers; and (4) immediate referral for more extensive case assessment. Such protective order shall be an order of the court, and the clerk of the court shall cause (A) a certified copy of such order to be sent to the victim, and (B) a copy of such order, or the information contained in such order, to be sent by facsimile or other means within forty-eight hours of its issuance to the law enforcement agency for the town in which the victim resides and, if the defendant resides in a town different from the town in which the victim resides, to the law enforcement agency for the town in which the defendant resides. If the victim is employed in a town different from the town in which the victim resides, the clerk of the court shall, upon the request of the victim, send, by facsimile or other means, a copy of such order, or the information contained in such order, to the law enforcement agency for the town in which the victim is employed within forty-eight hours of the issuance of such order.

(e) A protective order issued under this section may include provisions necessary to protect the victim from threats, harassment, injury or intimidation by the defendant, including, but not limited to, an order enjoining the defendant from (1) imposing any restraint upon the person or liberty of the victim, (2) threatening, harassing, assaulting, molesting or sexually assaulting the victim, or (3) entering the family dwelling or the dwelling of the victim. A protective order issued under this section may include provisions necessary to protect any animal owned or kept by the victim including, but not limited to, an order enjoining the defendant from injuring or threatening to injure such animal. Such order shall be made a condition of the bail or release of the defendant and shall contain the following language: "In accordance with section 53a-223 of the Connecticut general statutes, any violation of this order constitutes criminal violation of a protective order which is punishable by a term of imprisonment of not more than five years, a fine of not more than five thousand dollars, or both. Additionally, in accordance with section 53a-107 of the Connecticut general statutes, entering or remaining in a building or any other premises in violation of this order constitutes criminal trespass in the first degree which is punishable by a term of imprisonment of

not more than one year, a fine of not more than two thousand dollars, or both. Violation of this order also violates a condition of your bail or release, and may result in raising the amount of bail or revoking release." Every order of the court made in accordance with this section after notice and hearing shall also contain the following language: "This court had jurisdiction over the parties and the subject matter when it issued this protection order. Respondent was afforded both notice and opportunity to be heard in the hearing that gave rise to this order. Pursuant to the Violence Against Women Act of 1994, 18 USC 2265, this order is valid and enforceable in all fifty states, any territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico and tribal lands." The information contained in and concerning the issuance of any protective order issued under this section shall be entered in the registry of protective orders pursuant to section 51-5c.

(f) In cases referred to the local family violence intervention unit, it shall be the function of the unit to (1) identify victim service needs and, by contract with victim service providers, make available appropriate services and (2) identify appropriate offender services and where possible, by contract, provide treatment programs for offenders.

(g) There shall be a pretrial family violence education program for persons who are charged with family violence crimes. At a minimum, such program shall inform participants of the basic elements of family violence law and applicable penalties. The court may, in its discretion, invoke such program on motion of the defendant when it finds: (1) That the defendant has not previously been convicted of a family violence crime which occurred on or after October 1, 1986; (2) the defendant has not had a previous case assigned to the family violence education program **OR THAT TEN OR MORE YEARS HAVE PASSED SINCE THE DATE THAT ANY CHARGE OR CHARGES FOR WHICH THE PROGRAM WAS INVOKED ON THE DEFENDANT'S BEHALF HAVE BEEN DISMISSED BY THE COURT**; (3) the defendant has not previously invoked or accepted accelerated rehabilitation under section 54-56e for a family violence crime which occurred on or after October 1, 1986; and (4) that the defendant is not charged with a class A, class B or class C felony, or an unclassified felony carrying a term of imprisonment of more than ten years, or unless good cause is shown, a class D felony or an unclassified offense carrying a term of imprisonment of more than five years. **IF THE COURT INVOKES THE PROGRAM IT SHALL, BUT ONLY AS TO THE PUBLIC, ORDER THE COURT FILE SEALED.** Participation by any person in the accelerated pretrial rehabilitation program under section 54-56e prior to October 1, 1986, shall not prohibit eligibility of such person for the pretrial family violence education program under this section. The court may require that the defendant answer such questions under oath, in open court or before any person designated by the clerk and duly authorized to administer oaths, under the penalties of perjury as will assist the court in making these findings. The court, on such motion, may refer the defendant to the family violence intervention unit, and may continue the defendant's case pending the submission of the report of the unit to the

court. The court shall also give notice to the victim or victims that the defendant has requested assignment to the family violence education program, and, where possible, give the victim or victims opportunity to be heard. Any defendant who accepts placement in the family violence education program shall agree to the tolling of any statute of limitations with respect to the crime or crimes with which the defendant is charged, and to a waiver of the defendant's right to a speedy trial. Any such defendant shall appear in court and shall be released to the custody of the family violence intervention unit for such period, not exceeding two years, and under such conditions as the court shall order. **THE COURT MAY ALSO ORDER ANY DEFENDANT WHO HAS HAD THE PROGRAM INVOKED ON THEIR BEHALF PREVIOUSLY TO PERFORM UP TO 50 HOURS OF COMMUNITY SERVICE.** If the defendant refuses to accept, or, having accepted, violates such conditions, the defendant's case shall be brought to trial **AND THE COURT SHALL UNSEAL THE COURT FILE.** If the defendant satisfactorily completes the family violence education program and complies with the conditions imposed for the period set by the court, **INCLUDING ANY COMMUNITY SERVICE ORDERED BY THE COURT,** the defendant may apply for dismissal of the charges against the defendant and the court, on finding satisfactory compliance, shall dismiss such charges. Upon dismissal all records of such charges shall be erased pursuant to section 54-142a.

(h) A fee of two hundred dollars shall be paid to the court by any person who enters the family violence education program, except that no person shall be excluded from such program for inability to pay the fee, provided (1) the person files with the court an affidavit of indigency or inability to pay and (2) the court enters a finding thereof. All such fees shall be credited to the General Fund.

(i) The Judicial Department shall establish an ongoing training program for judges, Court Support Services Division personnel and clerks to inform them about the policies and procedures of sections 46b-1, 46b-15, 46b-38a to 46b-38f, inclusive, and 54-1g, including, but not limited to, the function of the family violence intervention units and the use of restraining and protective orders."

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2012 Legislative Proposal

AN ACT CONCERNING THE PRETRIAL DRUG EDUCATION PROGRAM

Purpose: *To establish a ten year look back period for participating in the pretrial drug education program.*

Section 1. *Section 54-56i (Pretrial drug education program) of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective upon passage):*

(a) There is established a pretrial drug education program for persons charged with a violation of section 21a-267 or 21a-279. The drug education program shall include a ten-session drug intervention program, a fifteen-session drug intervention program [and] a drug treatment program, **AND COMMUNITY SERVICE FOR PERSONS WHO HAVE PREVIOUSLY HAD THE PROGRAM INVOKED ON SUCH PERSON'S BEHALF.**

(b) Upon application by any such person for participation in such program and payment to the court of an application fee of one hundred dollars and a nonrefundable evaluation fee of one hundred dollars, the court shall, but only as to the public, order the court file sealed provided such person states under oath, in open court or before any person designated by the clerk and duly authorized to administer oaths, under penalties of perjury, that such person has never had such program invoked in such person's behalf **OR THAT TEN OR MORE YEARS HAVE PASSED SINCE THE DATE THAT ANY CHARGE OR CHARGES FOR WHICH THE PROGRAM WAS INVOKED ON THE DEFENDANT'S BEHALF HAVE BEEN DISMISSED BY THE COURT.** A person shall be ineligible for participation in such pretrial drug education program if such person has, **WITHIN THE PREVIOUS TEN YEARS**, [previously] participated in the eight-session, ten-session or fifteen-session drug education program, or substance abuse treatment established under this section [or the pretrial community service labor program established under section 53a-39c]. The evaluation and application fee required pursuant to this subsection shall be credited to the pretrial account established under section 54-56k.

(c) The court, after consideration of the recommendation of the state's attorney, assistant state's attorney or deputy assistant state's attorney in charge of the case, may, in its discretion, grant such application. If the court grants such application, the court shall refer such person to the Court Support Services Division for confirmation of the eligibility of the applicant and to the Department of Mental Health and Addiction Services for evaluation.

(d) Upon confirmation of eligibility and receipt of the evaluation required pursuant to subsection (c), such person shall be referred to the Department of Mental Health and Addiction Services by the Court Support Services Division for placement in the drug education program. Participants in the drug education program shall receive appropriate drug intervention services or substance abuse treatment program services, as recommended by the evaluation conducted pursuant to subsection (c) of this section, and ordered by the court. Placement in the drug education program pursuant to this section shall not exceed one year. Persons receiving substance abuse treatment program services in accordance with the provisions of this section shall only receive such services at state licensed substance abuse treatment program facilities that are in compliance with all state standards governing the operation of such facilities. Any person who enters the program shall agree: (1) To the tolling of the statute of limitations with respect to such crime; (2) to a waiver of such person's right to a speedy trial; (3) to complete participation in the ten-session drug intervention program, fifteen-session drug intervention program or substance abuse treatment program, as recommended by the evaluation conducted pursuant to subsection (c) of this section, and ordered by the court; (4) to commence participation in the drug education program not later than ninety days after the date of entry of the court order unless granted a delayed entry into the program by the court;(5) **TO PERFORM UP TO 50 HOURS OF COMMUNITY SERVICE IF THE PROGRAM HAS PREVIOUSLY BEEN INVOKED ON BEHALF OF THE PERSON AND THE CHARGES DISMISSED;** and [(5)] (6) upon completion of participation in the pretrial drug education program, to accept placement in a treatment program upon the recommendation of a provider under contract with the Department of Mental Health and Addiction Services or placement in a treatment program that has standards substantially similar to, or higher than, a program of a provider under contract with the Department of Mental Health and Addiction Services if the Court Support Services Division deems it appropriate. The department shall require as a condition of participation in the drug education program that any person participating in the ten-session drug intervention program or the substance abuse treatment program also participate in the community service labor program, established pursuant to section 53a-39c, for not less than five days; and that any person participating in the fifteen-session drug intervention program also participate in said community service labor program, for not less than ten days.

(e) If the Court Support Services Division informs the court that such person is ineligible for the program and the court makes a determination of ineligibility or if the program provider certifies to the court that such person did not successfully complete the assigned program and such person did not pursue or the court denied reinstatement in the program under subsection (i) of this section, the court shall order the court file to be unsealed, enter a plea of not guilty for such person and immediately place the case on the trial list.

(f) If such person satisfactorily completes the assigned program, such person may apply for dismissal of the charges against such person and the court, on reviewing the record of such person's participation in such program submitted by the Court Support Services Division and on finding such satisfactory completion, shall dismiss the charges. If such person does not apply for dismissal of the charges against such person after satisfactorily completing the assigned program, the court, upon receipt of the record of such person's participation in such program submitted by the Court Support Services Division, may on its own motion make a finding of such satisfactory completion and dismiss the charges. Upon motion of such person and a showing of good cause, the court may extend the placement period for a reasonable period for such person to complete the assigned program. A record of participation in such program shall be retained by the Court Support Services Division for a period of ten years from the date of application.

(g) At the time the court grants the application for participation in the pretrial drug education program, such person shall pay to the court a nonrefundable program fee of three hundred fifty dollars if such person is ordered to participate in the ten-session drug intervention program or five hundred dollars if such person is ordered to participate in the fifteen-session drug intervention. If the court orders participation in a drug treatment program, such person shall be responsible for the costs associated with such program. No person may be excluded from any such program for inability to pay such fee, provided (1) such person files with the court an affidavit of indigency or inability to pay, (2) such indigency or inability to pay is confirmed by the Court Support Services Division, and (3) the court enters a finding thereof. The court may waive all or any portion of such fee depending on such person's ability to pay. If the court denies the application, such person shall not be required to pay the program fee. If the court grants the application, and such person is later determined to be ineligible for participation in such pretrial drug education program or fails to complete the assigned program, the program fees shall not be refunded. All such program fees shall be credited to the pretrial account established under section 54-56k.

(h) If a person returns to court with certification from a program provider that such person did not successfully complete the assigned program or is no longer amenable to treatment, the provider, to the extent practicable, shall include a recommendation to the court as to whether a ten-session drug intervention program, a

fifteen-session drug program or placement in a substance abuse treatment program would best serve such person's needs. The provider shall also indicate whether the current program referral was an initial referral or a reinstatement to the program.

(i) When a person subsequently requests reinstatement into a drug intervention program or a substance abuse treatment program and the Court Support Services Division verifies that such person is eligible for reinstatement into such program and thereafter the court favorably acts on such request, such person shall pay a nonrefundable fee of one hundred seventy-five dollars if ordered to complete a ten-session drug intervention program or two hundred fifty dollars if ordered to complete a fifteen-session drug intervention program, as the case may be. Unless good cause is shown, such fees shall not be waived. If the court grants a person's request to be reinstated into a drug treatment program, such person shall be responsible for the costs, if any, associated with being reinstated into the treatment program. All fees collected in connection with a reinstatement to a drug intervention program shall be credited to the pretrial account established under section 54-56k. No person shall be permitted more than two program reinstatements pursuant to this subsection.

(j) The Department of Mental Health and Addiction Services shall develop standards and oversee appropriate drug education programs to meet the requirements of this section and may contract with service providers to provide such programs. The department shall adopt regulations, in accordance with chapter 54, to establish standards for such drug education programs.

(k) Any person whose employment or residence or schooling makes it unreasonable to attend a drug intervention program or substance abuse treatment program in this state may attend a program in another state that has standards similar to, or higher than, those of this state, subject to the approval of the court and payment of the program fee as provided in this section.

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2012 Legislative Proposal

AN ACT CONCERNING THE PRETRIAL SCHOOL VIOLENCE PROGRAM

Purpose: *To establish a two year look back period for eligibility in the pretrial school violence prevention program and to provide for community service for those who use the program more than once.*

Section 1. *Section 54-56j (Pretrial school violence prevention program) of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective upon passage):*

(a) There shall be a school violence prevention program for students of a public or private secondary school charged with an offense involving the use or threatened use of physical violence in or on the real property comprising a public or private elementary or secondary school or at a school-sponsored activity as defined in subsection (h) of section 10-233a. Upon application by any such person for participation in such program, the court shall, but only as to the public, order the court file sealed, provided such person states under oath, in open court or before any person designated by the clerk and duly authorized to administer oaths, under penalties of perjury that such person has never had such system invoked in such person's behalf, **OR THAT TWO OR MORE YEARS HAVE PASSED SINCE THE DATE THAT ANY CHARGE OR CHARGES FOR WHICH THE PROGRAM WAS INVOKED ON THE DEFENDANT'S BEHALF HAVE BEEN DISMISSED BY THE COURT** and that such person has not been convicted of an offense involving the threatened use of physical violence in or on the real property comprising a public or private elementary or secondary school or at a school-sponsored activity as defined in subsection (h) of section 10-233a, and that such person has not been convicted in any other state at any time of an offense the essential elements of which are substantially the same as such an offense.

(b) The court, after consideration of the recommendation of the state's attorney, assistant state's attorney or deputy assistant state's attorney in charge of the case, may, in its discretion, grant such application. If the court grants such application, it shall refer

such person to the Bail Commission for assessment and confirmation of the eligibility of the applicant. The Bail Commission, in making its assessment and confirmation, may rely on the representations made by the applicant under oath in open court with respect to convictions in other states of offenses specified in subsection (a) of this section. As a condition of eligibility for participation in such program, the student and the parents or guardian of such student shall certify under penalty of false statement that, to the best of such person's knowledge and belief, such person does not possess any firearms, dangerous weapons, controlled substances or other property or materials the possession of which is prohibited by law or in violation of the law. Upon confirmation of eligibility, the defendant shall be referred to the Office of Alternative Sanctions for evaluation and placement in an appropriate school violence prevention program for one year.

(c) Any person who enters the program shall agree: (1) To the tolling of the statute of limitations with respect to such crime, (2) to a waiver of the right to a speedy trial, (3) to participate in a school violence prevention program offered by a provider under contract with the Office of Alternative Sanctions pursuant to subsection (g) of this section, and (4) to successfully complete the assigned program. **THE COURT MAY ORDER THE PERSON TO PERFORM UP TO 25 HOURS OF COMMUNITY SERVICE IF THE PERSON IS ENTERING THE PROGRAM FOR A SECOND OR SUBSEQUENT TIME**. If the Bail Commission informs the court that the defendant is ineligible for the program and the court makes a determination of ineligibility or if the program provider certifies to the court that the defendant did not successfully complete the assigned program, the court shall order the court file to be unsealed, enter a plea of not guilty for such defendant and immediately place the case on the trial list.

(d) The Office of Alternative Sanctions shall monitor the defendant's participation in the assigned program and the defendant's compliance with the orders of the court including, but not limited to, maintaining contact with the student and officials of the student's school.

(e) If such defendant satisfactorily completes the assigned program and one year has elapsed since the defendant was placed in the program, such defendant may apply for dismissal of the charges against such defendant and the court, on reviewing the record of such defendant's participation in such program submitted by the Office of Alternative Sanctions and on finding such satisfactory completion, shall dismiss the charges. If the defendant does not apply for dismissal of the charges against the defendant after satisfactorily completing the assigned program and one year has elapsed since the defendant was placed in the program, the court, upon receipt of the record of the defendant's participation in such program submitted by the Office of Alternative Sanctions, may on its own motion make a finding of such satisfactory completion and dismiss the charges.

(f) The cost of participation in such program shall be paid by the parent or guardian of such student, except that no student shall be excluded from such program for inability to pay such cost provided (1) the parent or guardian of such student files with the court an affidavit of indigency or inability to pay, and (2) the court enters a finding thereof.

(g) The Office of Alternative Sanctions shall contract with service providers, develop standards and oversee appropriate school violence prevention programs to meet the requirements of this section.

(h) The school violence prevention program shall consist of at least eight group counseling sessions in anger management and nonviolent conflict resolution. **IN ADDITION, THE COURT MAY ORDER ANY PERSON PARTICIPATING IN THE PROGRAM FOR A SECOND OR SUBSEQUENT TIME TO PERFORM UP TO 25 HOURS OF COMMUNITY SERVICE.**

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2012 Legislative Proposal

AN ACT CONCERNING OPERATING UNDER SUSPENSION

Purpose: ***This proposed legislation would provide for a look back of 10 years similar to that provided in the statutes pertaining to the pretrial alcohol education system and requires the court to consider whether mitigating circumstances exist before sentencing.***

Section 1. *Subsection (h) of section 14-36 (Motor vehicle operator's license. Learner's permit. Limited license. Requirements. Driving history record check. Penalty. Regulations) of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2012):*

(h) Penalties. (1) Any person who violates any provision of this section shall, for a first offense, be deemed to have committed an infraction and be fined not less than seventy-five dollars or more than ninety dollars and, for any subsequent offense, **WITHIN TEN YEARS AFTER A PRIOR CONVICTION FOR THE SAME OFFENSE** shall be fined not less than two hundred fifty dollars or more than three hundred fifty dollars or be imprisoned not more than thirty days, or both.

(2) In addition to the penalty prescribed under subdivision (1) of this subsection, any person who violates any provision of this section who (A) has, **WITHIN TEN YEARS** prior to the commission of the present violation, committed a violation of this section [or subsection (a) of section 14-215,] shall be fined not more than five hundred dollars or sentenced to perform not more than one hundred hours of community service, or (B) has, **WITHIN TEN YEARS** prior to the commission of the present violation, committed two or more violations of this section **[**or subsection (a) of section 14-215, or any combination thereof,**]** **, IN THE ABSENCE OF ANY MITIGATING CIRCUMSTANCES AS DETERMINED BY THE COURT,** shall be sentenced to a term f imprisonment of ninety days which may not be suspended or reduced in any manner.

Section 2. *Section 14-215 (Operation while registration or license is refused, suspended or revoked. Penalty, misdemeanor) of the general statutes as amended is repealed and the following is substituted in lieu thereof:*

(a) No person to whom an operator's license has been refused, or, except as provided in section 14-215a, whose operator's license or right to operate a motor vehicle in this state has been suspended or revoked, shall operate any motor vehicle during the period of such refusal, suspension or revocation. No person shall operate or cause to be operated any motor vehicle, the registration of which has been refused, suspended or revoked, or any motor vehicle, the right to operate which has been suspended or revoked.

(b)(1) Except as provided in subsection (c) of this section, any person who violates any provision of subsection (a) of this section shall, for a first offense, be fined not less than one hundred fifty dollars or more than two hundred dollars or imprisoned not more than ninety days, or be both fined and imprisoned, and, for any subsequent offense, **WITHIN TEN YEARS AFTER A PRIOR CONVICTION FOR THE SAME OFFENSE**, shall be fined not less than two hundred dollars or more than six hundred dollars **OR SENTENCED TO PERFORM NOT MORE THAN ONE HUNDRED HOURS OF COMMUNITY SERVICE,** or imprisoned not more than one year, or be both fined and imprisoned.

(2) Except as provided in subsection (c) of this section, in addition to the penalty prescribed under subdivision (1) of this subsection, any person who violates any provision of subsection (a) of this section who (A) has, **WITHIN TEN YEARS** prior to the commission of the present violation, committed a violation of subsection (a) of this section **[o**r section 14-36**]** shall be fined not more than five hundred dollars or sentenced to perform not more than one hundred hours of community service, or (B) has, **WITHIN TEN YEARS** prior to the commission of the present violation, committed two or more violations of subsection (a) of this section [or section 14-36, or any combination thereof,] shall be sentenced to a term of imprisonment of **NOT MORE THAN** one year**, AND, IN THE ABSENCE OF ANY MITIGATING CIRCUMSTANCES AS DETERMINED BY THE COURT,** ninety days of which may not be suspended or reduced in any manner.

(3) THE COURT SHALL SPECIFICALLY STATE IN WRITING FOR THE RECORD THE MITIGATING CIRCUMSTANCES, OR THE ABSENCE THEREOF.

(c) (1) Any person who operates any motor vehicle during the period such person's operator's license or right to operate a motor vehicle in this state is under suspension or revocation on account of a violation of subsection (a) of section 14-227a or section 53a-56b or 53a-60d or pursuant to section 14-227b, shall be fined not less than five hundred dollars or more than one thousand dollars and imprisoned not more than one year, and, in the absence of any mitigating circumstances as determined by the court, thirty

consecutive days of the sentence imposed may not be suspended or reduced in any manner.

(2) Any person who operates any motor vehicle during the period such person's operator's license or right to operate a motor vehicle in this state is under suspension or revocation on account of a second violation of subsection (a) of section 14-227a or section 53a-56b or 53a-60d or for the second time pursuant to section 14-227b, shall be fined not less than five hundred dollars or more than one thousand dollars and imprisoned not more than two years, and, in the absence of any mitigating circumstances as determined by the court, one hundred twenty consecutive days of the sentence imposed may not be suspended or reduced in any manner.

(3) Any person who operates any motor vehicle during the period such person's operator's license or right to operate a motor vehicle in this state is under suspension or revocation on account of a third or subsequent violation of subsection (a) of section 14-227a or section 53a-56b or 53a-60d or for the third or subsequent time pursuant to section 14-227b, shall be fined not less than five hundred dollars or more than one thousand dollars and imprisoned not more than three years, and, in the absence of any mitigating circumstances as determined by the court, one year of the sentence imposed may not be suspended or reduced in any manner.

(4) The court shall specifically state in writing for the record the mitigating circumstances, or the absence thereof.

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2012 Legislative Proposal

AN ACT CONCERNING IMMIGRATION CONSEQUENCES

Purpose: ***This proposed legislation would expand the time period within which a person who has been convicted after pleading guilty and been subjected to certain immigration consequences as a result of such plea may file a motion to vacate the plea.***

Section 1. *Section 54-1j (Ascertainment that defendant understands possible immigration and naturalization consequences of guilty or nolo contendere plea) of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective upon passage);*

(a) The court shall not accept a plea of guilty or nolo contendere from any defendant in any criminal proceeding unless the court first addresses the defendant personally and determines that the defendant fully understands that if the defendant is not a citizen of the United States, conviction of the offense for which the defendant has been charged may have the consequences of deportation or removal from the United States, exclusion from readmission to the United States or denial of naturalization, pursuant to the laws of the United States. If the defendant has not discussed these possible consequences with the defendant's attorney, the court shall permit the defendant to do so prior to accepting the defendant's plea.

(b) The defendant shall not be required at the time of the plea to disclose the defendant's legal status in the United States to the court.

(c) If the court fails to address the defendant personally and determine that the defendant fully understands the possible consequences of the defendant's plea, as required in subsection (a) of this section, and the defendant not later than **TEN** [three] years after the acceptance of the plea shows that the defendant's plea and conviction may have one of the enumerated consequences, the court, on the defendant's motion, shall vacate the judgment, and permit the defendant to withdraw the plea of guilty or nolo contendere, and enter a plea of not guilty.

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2012 Legislative Proposal

AN ACT CONCERNING A REQUEST FOR FINAL DISPOSITION.

Purpose: ***The proposal makes technical amendments to the language of the statute pertaining to the filing of a request for a speedy trial. The amendment would assist in eliminating circumstances where a person could be held pretrial for a longer period of time than the maximum sentence which could be imposed.***

Section 1. *Section 54-82m (Rules re speedy trial to be adopted by judges of Superior Court) of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective upon passage);*

In accordance with the provisions of section 51-14, the judges of the Superior Court shall make such rules as they deem necessary to provide a procedure to assure a speedy trial for any person charged with a criminal offense on or after July 1, 1985. Such rules shall provide that [(1)] in any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of a criminal offense, **REGARDLESS OF WHETHER THE MOST SERIOUS CHARGE CONTAINED IN THE INFORMATION IS A FELONY OR MISDEMEANOR,** shall commence within twelve months from the filing date of the information or indictment or from the date of the arrest, whichever is later, except that when such defendant is incarcerated in a correctional institution of this state pending such trial and is not subject to the provisions of section 54-82c, **AS AMENDED BY THIS ACT, AND:**

(1) THE MOST SERIOUS CHARGE CONTAINED IN THE INFORMATION IS A FELONY, the trial of such defendant shall commence within eight months from the filing date of the information or indictment or from the date of arrest, whichever is later. **IF THE MOST SERIOUS CHARGE CONTAINED IN THE INFORMATION IS A FELONY [**; and (2) if] **AND** a defendant is not brought to trial within **EIGHT MONTHS** [the time limit set forth in subdivision (1)**]** and a trial is not commenced

within thirty days of a motion for a speedy trial made by the defendant at any time after such time limit has passed, the information or indictment shall be dismissed; **OR,**

(2) THE MOST SERIOUS CHARGE CONTAINED IN THE INFORMATION IS A MISDEMEANOR, THE DEFENDANT SHALL BE RELEASED UPON HIS EXECUTION OF A WRITTEN PROMISE TO APPEAR WITH SUCH NON-FINANCIAL CONDITIONS, IF ANY, AS DETERMINED BY THE COURT SUFFICIENT TO REASONABLY ASSURE THE APPEARANCE OF THE DEFENDANT IN COURT. **UPON THE RELEASE OF THE DEFENDANT IN A CASE IN WHICH THE MOST SERIOUS CHARGE IS A MISDEMEANOR, THE TRIAL OF THE DEFENDANT SHALL COMMENCE WITHIN TWELVE MONTHS FROM THE FILING DATE OF THE INFORMATION OR INDICTMENT OR FROM THE DATE OF THE ARREST, WHICHEVER IS LATER. IF SUCH TRIAL IS NOT COMMENCED WITHIN THE TIME PERIODS ESTABLISHED BY THIS SECTION, THE INFORMATION OR INDICTMENT SHALL BE DISMISSED**. Such rules shall include provisions to identify periods of delay caused by the action of the defendant, or the defendant's inability to stand trial, to be excluded in computing the time limits set forth in [subdivision (1)] **THIS SECTION**.

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2012 Legislative Proposal

AN ACT CONCERNING PAROLE

Purpose: ***This proposed legislation would provide that only the instant conviction should be considered when calculating 85% of a sentence to be served and permits discretion to the Board to grant parole for certain offenses.***

Section 1. *Section 54-125a (Parole of inmate serving sentence of more than two years. Eligibility. Hearing to determine suitability for parole release of certain inmates) of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective upon passage):* (a) A person convicted of one or more crimes who is incarcerated on or after October 1, 1990, who received a definite sentence or aggregate sentence of more than two years, and who has been confined under such sentence or sentences for not less than one-half of the aggregate sentence or one-half of the most recent sentence imposed by the court, whichever is greater, may be allowed to go at large on parole in the discretion of the panel of the Board of Pardons and Paroles for the institution in which the person is confined, if (1) it appears from all available information, including any reports from the Commissioner of Correction that the panel may require, that there is reasonable probability that such inmate will live and remain at liberty without violating the law, and (2) such release is not incompatible with the welfare of society. At the discretion of the panel, and under the terms and conditions as may be prescribed by the panel including requiring the parolee to submit personal reports, the parolee shall be allowed to return to the parolee's home or to reside in a residential community center, or to go elsewhere. The parolee shall, while on parole, remain under the jurisdiction of the board until the expiration of the maximum term or terms for which the parolee was sentenced. Any parolee released on the condition that the parolee reside in a residential community center may be required to contribute to the cost incidental to such residence. Each order of parole shall fix the limits of the parolee's residence, which may be changed in the discretion of the board and the Commissioner of Correction. Within three weeks after the commitment of each person sentenced to more than one year, the

state's attorney for the judicial district shall send to the Board of Pardons and Paroles the record, if any, of such person.

(b) (1) No person convicted of any of the following offenses, which was committed on or after July 1, 1981, shall be eligible for parole under subsection (a) of this section: Capital felony, as provided in section 53a-54b. [, felony murder, as provided in section 53a-54c, arson murder, as provided in section 53a-54d, murder, as provided in section 53a-54a, or aggravated sexual assault in the first degree, as provided in section 53a-70a.]

(2) [A person convicted of (A) a violation of section 53a-100aa or 53a-102, or (B) an offense, other than an offense specified in subdivision (1) of this subsection, where the underlying facts and circumstances of the offense involve the use, attempted use or threatened use of physical force against another person shall be ineligible for parole under subsection (a) of this section until such person has served not less than eighty-five per cent of the definite sentence imposed.] **ANY PERSON WHO IS SERVING A SENTENCE OF IMPRISONMENT AS A RESULT OF BEING CONVICTED OF ANY OF THE FOLLOWING OFFENSES SHALL BE INELIGIBLE FOR PAROLE UNTIL THEY SHALL HAVE SERVED NOT LESS THAN 85% OF THEIR DEFINITE SENTENCES:**

53a-54b **53a-54c** **53a-54d** **53a-55**	**Felony Murder** **Arson Murder** **Murder** **Manslaughter, First Degree**
53a-55a	**Manslaughter, First Degree with a Firearm**
53a-56	**Manslaughter, Second Degree**
53a-56a	**Manslaughter, Second Degree with a Firearm**
53a-56b	**Manslaughter, Second Degree with a Motor Vehicle**
53a-57	**Misconduct with a Motor Vehicle**
53a-59	**Assault, First Degree**
53a-60	**Assault, Second Degree**
53a-60a	**Assault, Second Degree with a Firearm**
53a-60b	**Assault of a Victim sixty or Older Second Degree**
53a-60c	**Assault of a Victim Sixty or Older, Second Degree with a Firearm**
53a-64aa	**Strangulation, First Degree**
53a-64bb	**Strangulation, Second Degree**
53a-59a	**Assault of a Victim Sixty or Older**
53a-70	**Sexual Assault, First Degree**
53a-70a	**Aggravated Sexual Assault, First Degree**

53a-70b	**Sexual Assault in a Spousal or Cohabiting Relationship**
53a-72b	**Sexual Assault, Third Degree with a Firearm**
53a-92	**Kidnapping, First Degree**
53a-92a	**Kidnapping, First Degree with a Firearm**
53a-94	**Kidnapping 2nd**
53a-94a	**Kidnapping 2nd with a Firearm**
53a-95	**Unlawful Restraint 1st**
53a-100aa	**Home Invasion**
53a-101	**Burglary, First Degree**
53a-102	**Burglary, Second Degree**
53a-102a	**Burglary, Second Degree with a Firearm**
53a-103a	**Burglary, Third Degree with a Firearm**
53a-111	**Arson, First Degree**
53a-112	**Arson, Second Degree**
53a-134	**Robbery, First Degree**
53a-135	**Robbery, Second Degree**
53a-136	**Robbery, Third Degree**
53a-167c	**Assault on a Policeman or Fireman**
53a-179b	**Rioting in a Correctional Facility**
53a-179c	**Inciting a Riot in a Correctional Facility**
53a-181c	**Stalking, First Degree**

(c) The Board of Pardons and Paroles shall, not later than July 1, 1996, adopt regulations in accordance with chapter 54 to ensure that a person convicted of an offense described in subdivision (2) of subsection (b) of this section is not released on parole until such person has served eighty-five per cent of the definite sentence imposed by the court. [Such regulations shall include guidelines and procedures for classifying a person as a violent offender that are not limited to a consideration of the elements of the offense or offenses for which such person was convicted.]

(d) The Board of Pardons and Paroles shall hold a hearing to determine the suitability for parole release of any person whose eligibility for parole release is not subject to the provisions of subsection (b) of this section upon completion by such person of seventy-five per cent of such person's definite or aggregate sentence. An employee of the board or, if deemed necessary by the chairperson, a panel of the board shall reassess the suitability for parole release of such person based on the following standards: (1)

Whether there is reasonable probability that such person will live and remain at liberty without violating the law, and (2) whether the benefits to such person and society that would result from such person's release to community supervision substantially outweigh the benefits to such person and society that would result from such person's continued incarceration. After hearing, if the board determines that continued confinement is necessary, it shall articulate for the record the specific reasons why such person and the public would not benefit from such person serving a period of parole supervision while transitioning from incarceration to the community. The decision of the board under this subsection shall not be subject to appeal.

(e) The Board of Pardons and Paroles shall hold a hearing to determine the suitability for parole release of any person whose eligibility for parole release is subject to the provisions of subdivision (2) of subsection (b) of this section upon completion by such person of eighty-five per cent of such person's definite or aggregate sentence. An employee of the board or, if deemed necessary by the chairperson, a panel of the board shall assess the suitability for parole release of such person based on the following standards: (1) Whether there is reasonable probability that such person will live and remain at liberty without violating the law, and (2) whether the benefits to such person and society that would result from such person's release to community supervision substantially outweigh the benefits to such person and society that would result from such person's continued incarceration. After hearing, if the board determines that continued confinement is necessary, it shall articulate for the record the specific reasons why such person and the public would not benefit from such person serving a period of parole supervision while transitioning from incarceration to the community. The decision of the board under this subsection shall not be subject to appeal.

(f) Any person released on parole under this section shall remain in the custody of the Commissioner of Correction and be subject to supervision by personnel of the Department of Correction during such person's period of parole.

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2012 Legislative Proposal

AN ACT CONCERNING MEDICAL PAROLE

Purpose: ***This proposed legislation expands the discretion of the board of Pardons and Parole and permit the release of a person on medical parole in certain instances.***

Section 1. *Section 54-131b (Eligibility for medical parole) of the general statutes as amended is repealed and the following is substituted in lieu thereof:*

(1) The Board of Pardons and Paroles may release on medical parole any inmate serving any sentence of imprisonment, except an inmate convicted of a capital felony as defined in section 53a-54b, who has been diagnosed pursuant to section 54-131c as suffering from a terminal condition, disease or syndrome, and is so debilitated or incapacitated by such condition, disease or syndrome as to be physically incapable of presenting a danger to society. Notwithstanding any provision of the general statutes to the contrary, the Board of Pardons and Paroles may release such inmate at any time during the term of his sentence.

(2) THE BOARD OF PARDONS AND PAROLES MAY RELEASE ON MEDICAL PAROLE ANY INMATE SERVING ANY SENTENCE OF IMPRISONMENT, EXCEPT AN INMATE CONVICTED OF A CAPITAL FELONY AS DEFINED IN C.G.S. §53a-4b, WHO IS: (1) OVER THE AGE OF SIXTY-TWO YEARS; AND, (2) DETERMINED TO BE A LOW RISK TO OFFEND DUE TO A DIAGNOSES THAT THE INMATE HAS A SERIOUS PHYSICAL OR MENTAL HEALTH CONDITION.

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2012 Legislative Proposal

AN ACT CONCERNING A PRESUMPTION FOR BEING GRANTED A FULL PARDON

Purpose: ***To establish a presumption that certain offenders are presumed to be eligible for a pardon and to require the Board of Pardons and Paroles to explain their reasons in writing for denying a pardon to such offenders.***

Section 1. *Section 54-130a (Jurisdiction and authority to grant commutations of punishment, releases and pardons) of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective upon passage):*

(a) Jurisdiction over the granting of, and the authority to grant, commutations of punishment or releases, conditioned or absolute, in the case of any person convicted of any offense against the state and commutations from the penalty of death shall be vested in the Board of Pardons and Paroles.

(b) The board shall have authority to grant pardons, conditioned, provisional or absolute, for any offense against the state at any time after the imposition and before or after the service of any sentence.

(c) The board may accept an application for a pardon three years after an applicant's conviction of a misdemeanor or violation and five years after an applicant's conviction of a felony, except that the board, upon a finding of extraordinary circumstances, may accept an application for a pardon prior to such dates.

(d)THERE SHALL BE A PRESUMPTION THAT A PERSON WHO IS APPLYING FOR A PARDON FOR A NON-VIOLENT MISDEMEANOR SHOULD BE GRANTED A FULL PARDON IF THE APPLICANT HAS HAD NO CONVICTIONS OR ARRESTS FOR ANY CRIMINAL ACTIVITY IN CONNECTICUT OR ELSEWHERE FOR AT LEAST THREE YEARS SINCE THE

APPLICANT'S CONVICTION OR RELEASE FROM PROBATION, PAROLE, OR DEPARTMENT OF CORRECTION SUPERVISION, WHICHEVER IS LATER. IF SUCH APPLICANT IS NOT GRANTED A FULL PARDON THE BOARD MUST PROVIDE TO THE APPLICANT IN WRITING ITS REASON OR REASONS FOR ITS DECISION AND ITS RECOMMENDATIONS IF ANY FOR WHAT THE APPLICANT COULD DO TO BE GRANTED A FULL PARDON IN THE FUTURE.

(E) THERE SHALL BE A PRESUMPTION THAT A PERSON WHO IS APPLYING FOR A PARDON FOR A POSSESSION OFFENSE PURSUANT TO C.G.S. §21a-277 (a), §21a-277(b), §21a-278(a) or §21a-278(b) SHOULD BE GRANTED A FULL PARDON FOR SUCH OFFENSE IF (1) THE CONVICTION WAS THE APPLICANT'S FIRST CONVICTION FOR VIOLATING ANY OF THESE STATUTES, AND (2) THE APPLICANT HAS HAD NO CONVICTIONS OR ARRESTS FOR ANY CRIMINAL ACTIVITY IN CONNECTICUT OR ANY OTHER STATE FOR AT LEAST FIVE YEARS SINCE THE APPLICANT'S CONVICTION OR RELEASE FROM PROBATION, PAROLE, OR DEPARTMENT OF CORRECTION SUPERVISION, WHICHEVER IS LATER. IF SUCH APPLICANT IS NOT GRANTED A FULL PARDON THE BOARD MUST PROVIDE TO THE APPLICANT IN WRITING ITS REASON OR REASONS FOR ITS DECISION AND ITS RECOMMENDATIONS IF ANY FOR WHAT THE APPLICANT COULD DO TO BE GRANTED A FULL PARDON IN THE FUTURE.

(F) THE PRESUMPTION ARTICULATED IN SUBSECTION (E) SHALL NOT APPLY TO APPLICANTS WHO ARE REQUIRED TO REGISTER FOR SEX RELATED OFFENSES IN CONNECTICUT OR ELSEWHERE.

[(d) **(G)** Whenever the board grants an absolute pardon to any person, the board shall cause notification of such pardon to be made in writing to the clerk of the court in which such person was convicted, or the Office of the Chief Court Administrator if such person was convicted in the Court of Common Pleas, the Circuit Court, a municipal court, or a trial justice court.

[(e)] **(H)** Whenever the board grants a provisional pardon to any person, the board shall cause notification of such pardon to be made in writing to the clerk of the court in which such person was convicted. The granting of a provisional pardon does not entitle such person to erasure of the record of the conviction of the offense or relieve such person from disclosing the existence of such conviction as may be required.

[(f)] **(I)** In the case of any person convicted of a violation for which a sentence to a term of imprisonment may be imposed, the board shall have authority to grant a pardon, conditioned, provisional or absolute, in the same manner as in the case of any person convicted of an offense against the state.

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2012 Legislative Proposal

AN ACT CONCERNING ERASURE

Purpose: ***The proposal provides that records of the Department of Correction pertaining to persons found not guilty of a charge or where the charges have been dismissed shall be erased.***

Section 1. *Section 54-142g (Definitions) of the general statutes as amended is repealed and the following is substituted in lieu thereof:*

For purposes of this part and sections 29-11 and 54-142c, the following definitions shall apply:

(a) "Criminal history record information" means court records and information compiled by criminal justice agencies for purposes of identifying criminal offenders and of maintaining as to each such offender notations of arrests, releases, detentions, indictments, informations, or other formal criminal charges or any events and outcomes arising from those arrests, releases, detentions, including pleas, trials, sentences, appeals, incarcerations, correctional supervision, paroles and releases; but does not include intelligence, presentence investigation, investigative information or any information which may be disclosed pursuant to subsection (f) of section 54-63d.

(b) "Criminal justice agency" means any court with criminal jurisdiction, the Department of Motor Vehicles or any other governmental agency created by statute which is authorized by law and engages, in fact, as its principal function in activities constituting the administration of criminal justice, including, but not limited to, organized municipal police departments, the Division of State Police, the Department of Correction, the Court Support Services Division, the Office of Policy and Management, the state's attorneys, assistant state's attorneys and deputy assistant state's attorneys, the Board of Pardons and Paroles, the Chief Medical Examiner and the Office of the Victim Advocate. "Criminal justice agency" includes any component of a public, noncriminal justice agency if such component is created by statute and is authorized by law and, in

fact, engages in activities constituting the administration of criminal justice as its principal function.

(c) "Conviction information" means criminal history record information which has not been erased, as provided in section 54-142a, and which discloses that a person has pleaded guilty or nolo contendere to, or was convicted of, any criminal offense, and the terms of the sentence.

(d) "Current offender information" means information on the current status and location of all persons who (1) are arrested or summoned to appear in court; (2) are being prosecuted for any criminal offense in Superior Court; (3) have an appeal pending from any criminal conviction; (4) are detained or incarcerated in any correctional facility in this state; or (5) are subject to the jurisdiction or supervision of any probation, parole or correctional agency in this state, including persons transferred to other states for incarceration or supervision.

(e) "Nonconviction information" means (1) criminal history record information that has been "erased" pursuant to section 54-142a; (2) information relating to persons granted youthful offender status; (3) continuances which are more than thirteen months old**;**
OR (4) RECORDS OF THE DEPARTMENT OF CORRECTION PERTAINING TO ANY ACCUSED PERSON IN A CRIMINAL CASE, ON OR AFTER JULY 1, 2006, WHICH BY A FINAL JUDGMENT, IS FOUND NOT GUILTY OF THE CHARGE OR THE CHARGE IS DISMISSED, UPON THE EXPIRATION OF THE TIME TO FILE A WRIT OF ERROR OR TAKE AN APPEAL, IF AN APPEAL IS NOT TAKEN, OR UPON FINAL DETERMINATION OF THE APPEAL SUSTAINING A FINDING OF NOT GUILTY OR A DISMISSAL, IF AN APPEAL IS TAKEN. Nonconviction information does not mean conviction information or current offender information.

(f) "Disclosure" means the communication of information to any person by any means.

(g) "Dismissal" means (1) prosecution of the charge against the accused was declined pursuant to rules of court or statute; or (2) the judicial authority granted a motion to dismiss pursuant to rules of court or statute; or (3) the judicial authority found that prosecution is no longer possible due to the limitations imposed by section 54-193.

Section 2. *Section 54-142k (Availability of conviction information and nonconviction information) of the general statutes as amended is repealed and the following is substituted in lieu thereof;*

(a) Each person or agency holding conviction information or nonconviction information shall establish reasonable hours and places of inspection of such information.

(b) Conviction information shall be available to the public for any purpose.

(c) Nonconviction information shall be available to the subject of the information and to such person's attorney pursuant to this subsection and subsection (d) of this section. Any person shall, upon satisfactory proof of his identity, be entitled to inspect, for purposes of verification and correction, any nonconviction information relating to him and upon his request shall be given a computer printout or photocopy of such information for which a reasonable fee may be charged, provided no erased record may be released except as provided in subsection (f) of section 54-142a. **EXCEPT FOR THE RECORDS OF THE DEPARTMENT OF CORRECTION AS DEFINED IN SUBSECTION (e) of C.G.S. 54-142g, AS AMENDED, [**B]before releasing any exact reproductions of nonconviction information to the subject of the information, the agency holding such information may remove all personal identifying information from such reproductions.

(d) Any person may authorize, in writing, an agency holding nonconviction information pertaining directly to such person to disclose such information to his attorney-at-law. The holding agency shall permit such attorney to inspect and obtain a copy of such information if both his identity and that of his client are satisfactorily established, provided no erased record may be released unless such attorney attests to his client's intention to challenge the accuracy of such record.

(e) Any person who obtains nonconviction information by falsely representing to be the subject of the information shall be guilty of a class D felony.

Section 3. *Section 54-142n (Further provisions for disclosure of nonconviction information) of the general statutes as amended is repealed and the following is substituted in lieu thereof:*

Nonconviction information other than **(A)** erased information **AND (B) RECORDS OF THE DEPARTMENT OF CORRECTION AS DEFINED IN SUBSECTION (e) of C.G.S. §54-142g, AS AMENDED,** may be disclosed only to: (1) Criminal justice agencies in this and other states and the federal government; (2) agencies and persons which require such information to implement a statute or executive order that expressly refers to criminal conduct; (3) agencies or persons authorized by a court order, statute or decisional law to receive criminal history record information. Whenever a person or agency receiving a request for nonconviction information is in doubt about the authority of the requesting agency to receive such information, the request shall be referred to the state police bureau of investigation.

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2012 Legislative Proposal

AN ACT CONCERNING SUPPORT

Purpose: ***This proposed legislation would promote communication between the court and support enforcement as it suspends payments and tolls the accrual of interest whenever an obligor is incarcerated.***

Section 1. *Section 46b-37 (Joint duty of spouses to support family, Liability for purchases and certain expenses. Abandonment) of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective upon passage);*

(NEW) (F) NOTWITHSTANDING THE FOREGOING, ANY SUPPORT PAYMENTS DUE A SPOUSE SHALL BE SUSPENDED AND NO INTEREST SHALL ACCRUE WHILE THE OBLIGOR, WHO HAS BEEN DETERMINED TO BE INDIGENT, IS INCARCERATED PRETRIAL OR AS A SENTENCED PRISONER OR IS INSTITUTIONALIZED.

Section 2. *Section 46b-215 (Relatives obliged to furnish support. Attorney General and attorney for town as parties. Order) of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective upon passage);*

(NEW) (G) NOTWITHSTANDING THE FOREGOING, ANY SUPPORT PAYMENTS DUE SHALL BE SUSPENDED AND NO INTEREST SHALL ACCRUE WHILE THE OBLIGOR, WHO HAS BEEN DETERMINED TO BE INDIGENT, IS INCARCERATED PRETRIAL OR AS A SENTENCED PRISONER OR IS INSTITUTIONALIZED.

Section 3. *Section 46b-215e (Initial or modified support order where child support obligor is institutionalized or incarcerated) of the general statutes as amended is repealed and the following is substituted in lieu thereof ((Effective upon passage) ;*

Notwithstanding any provision of the general statute, whenever a child support obligor is institutionalized or incarcerated, the Superior Court or a family support magistrate shall establish an initial order for current support, or modify an existing order for current support, upon proper motion, based upon the obligor's present income and substantial assets, if any, in accordance with the child support guidelines established pursuant to section 46b-215a, **EXCEPT THAT ANY SUPPORT PAYMENTS DUE SHALL BE SUSPENDED AND NO INTEREST SHALL ACCRUE IF THE OBLIGOR HAS BEEN DETERMINED TO BE INDIGENT AND IS INCARCERATED PRETRIAL OR AS A SENTENCED PRISONER OR IS INSTITUTIONALIZED.** Downward modification of an existing support order based solely on a loss of income due to incarceration or institutionalization shall not be granted in the case of a child support obligor who is incarcerated or institutionalized for an offense against the custodial party or the child subject to such support order.

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2012 Legislative Proposal

AN ACT CONCERNING IMMUNITY FOR EMPLOYING CERTAIN INDIVIDUALS AND A REMEDY FOR DISCRIMINATION AGAINST SUCH INDIVIDUALS

Purpose: ***To provide immunity for employers from civil liability when they comply with the statutory anti-discrimination provisions and to provide employees and prospective employees the right to sue and recover attorneys fees if they are discriminated against in violation of the law.***

Section 1. *Section. 31-51i (Employer inquiries about erased criminal record prohibited. Discrimination on the basis of erased criminal record or provisional pardon prohibited. Availability of information on employment application form. Duties of consumer reporting agency issuing consumer report for employment purposes containing criminal matters of public record) of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective upon passage);*

(a) For the purposes of this section, "employer" means any person engaged in business who has one or more employees, including the state or any political subdivision of the state.

(b) No employer or an employer's agent, representative or designee may require an employee or prospective employee to disclose the existence of any arrest, criminal charge or conviction, the records of which have been erased pursuant to section 46b-146, 54-76o or 54-142a.

(c) An employment application form that contains any question concerning the criminal history of the applicant shall contain a notice, in clear and conspicuous language: (1) That the applicant is not required to disclose the existence of any arrest, criminal charge or conviction, the records of which have been erased pursuant to section 46b-146, 54-76o or 54-142a, (2) that criminal records subject to erasure pursuant to section 46b-146, 54-76o or 54-142a are records pertaining to a finding of delinquency

or that a child was a member of a family with service needs, an adjudication as a youthful offender, a criminal charge that has been dismissed or nolled, a criminal charge for which the person has been found not guilty or a conviction for which the person received an absolute pardon, and (3) that any person whose criminal records have been erased pursuant to section 46b-146, 54-76o or 54-142a shall be deemed to have never been arrested within the meaning of the general statutes with respect to the proceedings so erased and may so swear under oath.

(d) (1) No employer or an employer's agent, representative or designee shall deny employment to a prospective employee solely on the basis that the prospective employee had a prior arrest, criminal charge or conviction, the records of which have been erased pursuant to section 46b-146, 54-76o or 54-142a or that the prospective employee had a prior conviction for which the prospective employee has received a provisional pardon pursuant to section 54-130a.

(2) NO EMPLOYER WHO COMPLIES WITH SUBSECTION (d)(1) SHALL BE LIABLE IN A LAWSUIT AGAINST SUCH EMPLOYER SOLELY ON THE BASIS THAT (A)THE PROSPECTIVE EMPLOYEE OR EMPLOYEE HAD A PRIOR ARREST, CRIMINAL CHARGE OR CONVICTION, THE RECORDS OF WHICH HAD BEEN ERASED PURSUANT TO SECTION 46b-146, 54-76o OR 54-142a OR (B) THE PROSPECTIVE EMPLOYEE HAD A PRIOR CONVICTION FOR WHICH THE PROSPECTIVE EMPLOYEE HAD RECEIVED A PROVISIONAL PARDON PURSUANT TO SECTION 54-130a.

(e) No employer or an employer's agent, representative or designee shall discharge, or cause to be discharged, or in any manner discriminate against, any employee solely on the basis that the employee had, prior to being employed by such employer, an arrest, criminal charge or conviction, the records of which have been erased pursuant to section 46b-146, 54-76o or 54-142a or that the employee had, prior to being employed by such employer, a prior conviction for which the employee has received a provisional pardon pursuant to section 54-130a.

(f) The portion of an employment application form which contains information concerning the criminal history record of an applicant or employee shall only be available to the members of the personnel department of the company, firm or corporation or, if the company, firm or corporation does not have a personnel department, the person in charge of employment, and to any employee or member of the company, firm or corporation, or an agent of such employee or member, involved in the interviewing of the applicant.

(g) Notwithstanding the provisions of subsection (f) of this section, the portion of an employment application form which contains information concerning the criminal

history record of an applicant or employee may be made available as necessary to persons other than those specified in said subsection (f) by:

(1) A broker-dealer or investment adviser registered under chapter 672a in connection with (A) the possible or actual filing of, or the collection or retention of information contained in, a form U-4 Uniform Application for Securities Industry Registration or Transfer, (B) the compliance responsibilities of such broker-dealer or investment adviser under state or federal law, or (C) the applicable rules of self-regulatory organizations promulgated in accordance with federal law;

(2) An insured depository institution in connection with (A) the management of risks related to safety and soundness, security or privacy of such institution, (B) any waiver that may possibly or actually be sought by such institution pursuant to section 19 of the Federal Deposit Insurance Act, 12 USC 1829(a), (C) the possible or actual obtaining by such institution of any security or fidelity bond, or (D) the compliance responsibilities of such institution under state or federal law; and

(3) An insurance producer licensed under chapter 701a in connection with (A) the management of risks related to security or privacy of such insurance producer, or (B) the compliance responsibilities of such insurance producer under state or federal law.

(h) (1) For the purposes of this subsection: (A) "Consumer reporting agency" means any person who regularly engages, in whole or in part, in the practice of assembling or preparing consumer reports for a fee, which reports compile and report items of information on consumers that are matters of public record and are likely to have an adverse effect on a consumer's ability to obtain employment, but does not include any public agency; (B) "consumer report" means any written, oral or other communication of information bearing on an individual's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living; and (C) "criminal matters of public record" means information obtained from the Judicial Department relating to arrests, indictments, convictions, outstanding judgments, and any other conviction information, as defined in section 54-142g.

(2) Each consumer reporting agency that issues a consumer report that is used or is expected to be used for employment purposes and that includes in such report criminal matters of public record concerning the consumer shall:

(A) At the time the consumer reporting agency issues such consumer report to a person other than the consumer who is the subject of the report, provide the consumer who is the subject of the consumer report (i) notice that the consumer reporting agency is reporting criminal matters of public record, and (ii) the name and address of the person to whom such consumer report is being issued;

(B) Maintain procedures designed to ensure that any criminal matter of public record reported is complete and up-to-date as of the date the consumer report is issued, which procedures shall, at a minimum, conform to the requirements set forth in section 54-142e.

(3) This subsection shall not apply in the case of an agency or department of the United States government seeking to obtain and use a consumer report for employment purposes if the head of the agency or department makes a written finding pursuant to 15 USC 1681b(b)(4)(A).
(i)

(i) IN ADDITION TO OTHER REMEDIES PROVIDED BY LAW, AN APPLICANT OR EMPLOYEE WHO HAS BEEN HARMED BY A VIOLATION OF SUBSECTION (D)(1) AND (E) SHALL HAVE THE RIGHT TO FILE A LAWSUIT AGAINST THE EMPLOYER, THE EMPLOYER'S AGENTS OR REPRESENTATIVES OR DESIGNEES, AND IF SUCCESSFUL SHALL BE ENTITLED TO REASONABLE ATTORNEY FEES.